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# Racism Behind Bars

The  
treatment  
of black  
and  
other racial  
minority  
prisoners  
in  
Ontario  
prisons



Interim Report of the Commission  
on Systemic Racism  
in the Ontario  
Criminal Justice System





COMMISSION ON SYSTEMIC  
RACISM IN THE ONTARIO  
CRIMINAL JUSTICE SYSTEM

COMMISSION SUR LE RACISME  
SYSTÉMIQUE DANS LE SYSTÈME  
DE JUSTICE PÉNALE EN ONTARIO

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Co-Chair  
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January 1994

The Honourable H. N. R. Jackman  
Lieutenant Governor of Ontario  
Suite 131  
Main Legislative Building  
Queen's Park  
Toronto, ON  
M7A 1A1

Your Excellency:

Pursuant to Clause 8 of our Terms of Reference, the Commission on Systemic Racism in the Ontario Criminal Justice System is pleased to submit to you its Interim Report on the treatment of racial minorities in adult and youth correctional facilities in Ontario.

The Commission appreciates the time, energy, and hard work that hundreds of people across the province have put into submissions, presentations, and meetings. This report is built on the ideas they shared with us.

Yours truly,

Margaret Gittens  
Co-Chair

David P. Cole  
Co-Chair

Moy Tam  
Commissioner

Toni Williams  
Commissioner

Ed Ratushny  
Commissioner

Sri-Guggan Sri-Skanda-Rajah  
Commissioner







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other racial minority prisoners  
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**Interim Report of the Commission**  
**on Systemic Racism**  
**in the Ontario Criminal Justice System**

January 1994



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# Executive Summary

## The Commission's Framework

The Commission on Systemic Racism in the Ontario Criminal Justice System was established in October 1992 to investigate and make recommendations about policies, procedures, and practices of the criminal justice system that may result in systemic racism. Our Terms of Reference direct us to examine the experiences and vulnerabilities of all racial minority communities, with a main focus on systemic racism as experienced by black people, women, and youth.

By "systemic racism" we mean the values, practices, and procedures that result in black and other racial minority people receiving worse treatment than white people. Systemic racism does not necessarily depend on intention. Those with the power to make decisions may not consciously choose to treat white people better than black and other racial minority people. Even if there is no intention, however, the rules, values, and policies that shape institutions and processes may have discriminatory consequences.

The general constitutional and legal framework for relationships between the state and citizens asserts that all government services ought to be delivered with fairness and equality. Our laws emphasize genuine equality rather than "formal similarity" of treatment. In the context of this Interim Report on corrections, "genuine equality" means recognising that prisoners from diverse racial and cultural communities are disadvantaged and may suffer real hardship when the only programs and services available to them are based on the needs of white Euro-Canadians. Genuine equality demands that programs which reflect the racial, religious, and linguistic diversity of prisoners should be seen as standard prison services and not be viewed as "special treatment."

## The Consultation Process

The Commission developed an extensive consultation process, including formal interviews, both individual and collective; observation and informal discussions at federal and provincial prisons; and analysis of written materials, including Ministry and institutional policies, practices, and procedures, and corrections research literature.

Our research drew on the experiences of as many people with personal knowledge of prisons as possible in the time available. At the same time, it was recognized that there may be substantial differences among the 85 institutions that make up the adult and youth prison system in Ontario.



## *Executive Summary*

- (iv) The Ministry responsible for adult corrections should ensure that the Anti-Racism Co-ordinator is provided with sufficient resources to perform the necessary functions.
- (v) The Minister responsible for adult corrections should direct Ministry officials to co-operate fully with the Co-ordinator, to provide all relevant information upon request, to facilitate access to prisoners and staff, and to exercise their discretion under the *Freedom of Information and Protection of Privacy Act* in a way that assists the work of the Co-ordinator.

### **2. Anti-Racism Co-ordination for Youth Corrections.**

- (A) The Office of Child and Family Service Advocacy should be designated to act as Anti-Racism Co-ordinator for all young offenders.
- (B) The current memoranda of agreement between the Correctional Ministries and the Office of Child and Family Service Advocacy should be amended to reflect a similar mandate, authority, reporting structure, co-operation, and resources as that of the Anti-Racism Co-ordinator for adult offenders.

### **3. The functions of the Office of the Anti-Racism Co-ordinators.**

The Office of the Anti-Racism Co-ordinator for adult corrections and the Office of Child and Family Service Advocacy should include the following functions:

- (i) Ensuring and overseeing the development and implementation of strategies for ongoing community involvement in corrections;
- (ii) Recommending anti-racism strategies to the Correctional Ministries for implementation in institutions;
- (iii) Conducting systematic reviews of ministry-wide programs and policies;
- (iv) Conducting periodic and random audits of prison conditions, programs, practices, and services;
- (v) Investigating complaints of racism from staff or prisoners;
- (vi) Receiving periodic reports on anti-racism initiatives and records of racist incidents from superintendents;
- (vii) Publishing reports on their activities, progress and requirements on a periodic basis and in Ministry annual reports.

**4. The role of the institutional superintendent.**

The elimination of racism should be specified as a responsibility in each superintendent's job description and should form a principal element in his/her performance appraisal.

**5. Racial segregation of prisoners.**

(A) Racial segregation of prisoners, as currently practiced in Ontario correctional facilities, must be abolished.

(B) To further this objective:

(i) The gathering of statistics by race in relation to Ontario prisoners should be improved by establishing greater uniformity and adopting a more refined self-identification process.

(ii) Each superintendent should collect and report at least monthly to the Anti-Racism Co-ordinators, the racial composition of the prisoner population by range (or equivalent) and by program involvement.

(iii) Each superintendent should forward quarterly reports of classification decisions to the Co-ordinators.

(iv) The reporting format should be established by the Anti-Racism Co-ordinators following consultation with each superintendent.

(v) The Anti-Racism Co-ordinators should be entitled to receive further elaboration or an explanation from a superintendent on request.

**6. Classification staff qualifications and training.**

(A) Standard qualifications should be established for all post-sentence classification staff.

(B) The Correctional Ministries should develop and maintain standardized training for all staff involved in post-sentence classification and placement.

**7. Pre-trial and post-sentence policies.**

By May 1, 1994, the Correctional Ministries should establish and implement province-wide non-discriminatory policies for:

(A) Pre-Trial

(i) Placing prisoners in units within jails and detention centres;

(ii) Moving prisoners from one unit to another within jails and detention centres; and

(iii) Moving prisoners among jails and detention centres.

## *Executive Summary*

- (B) Post-Sentence
  - (i) Classifying prisoners for assignment to correctional centres;
  - (ii) Classifying prisoners for placement within correctional centres;
  - (iii) Reclassifying prisoners for transfers between institutions.
- 8. Culturally appropriate programs and services.**
  - (A) The Initial Placement Report (IPR) form currently used in adult corrections should be modified to identify cultural, linguistic, religious, and personal care needs of black and other racial minority prisoners.
  - (B) By May 1, 1994, institutional superintendents should have completed a needs analysis of all racial minority prisoners and should have established action plans to provide culturally appropriate programs and services.
  - (C) By May 1, 1994, institutional superintendents should have in place additional mechanisms to assess linguistic, religious, and dietary needs of prisoners at the point of entry into a correctional facility.
- 9. Black and other racial minority women prisoners.**
  - (A) The Anti-Racism Co-ordinators should address the needs of black and other racial minority women prisoners as being additional to and distinct from those of male prisoners.
  - (B) The racially differential treatment of pregnant prisoners should be eliminated immediately, particularly in relation to physical labour, rest periods, medication, clothing, and nutrition.
- 10. The transfer of black remand prisoners.**
  - (A) The superintendents of the adult male jails and detention centres in Metropolitan Toronto and the Hamilton-Wentworth Detention Centre should immediately review the selection criteria for the transfer of pre-trial detainees from Toronto to Hamilton as well as the application of those criteria in practice. By May 1, 1994, the superintendents should implement a plan to eliminate the disproportionate numbers of black prisoners who are placed in Hamilton while awaiting their trials in Toronto.



- (B) As an interim measure these superintendents should immediately impose a temporary quota system for such transfers, under which the proportion of black prisoners transferred to Hamilton would be no higher than the proportion of black prisoners in the Metropolitan Toronto jails and detention centres.
- (C) The steps taken by these superintendents should be reviewed by the Anti-Racism Co-ordinator for adult corrections, who should also monitor the operation of the quota system and ultimately recommend its termination.

## **Future Investigations**

The Commission has a large task. Where previous official inquiries into the operation of the criminal justice system in Ontario have concentrated on racism in policing, our mandate extends from arrest to release following incarceration, including bail, legal aid, prosecutorial discretion, plea-bargaining, jury selection, sentencing, probation, and parole.

As directed by our Terms of Reference, the Commission has limited this interim report to the treatment of black and other racial minority prisoners in the correctional system.



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# Chapter 1 Introduction

## Background

This interim report is about racism in the prisons of Ontario. Racism behind bars may take many forms. It appears in segregated living units, in the stereotyping of black and other racial minority\* prisoners, in the failure of prisons to accommodate the religious and cultural practices of those prisoners who are not white and not Christian, and in the reluctance of prison administrations to provide culturally appropriate treatment and services. Sometimes, for example, when prison staff call black and other racial minority prisoners demeaning names, the racism is obvious and overt. In other instances, racism takes a more subtle or “systemic” form.

By “systemic racism” we mean the values, practices, and procedures of decision-makers that result in black and other racial minority people receiving worse treatment than white people. Systemic racism does not necessarily depend on intention. Those with the power to make decisions may not consciously choose to treat white people better than black and other racial minority people. Even if there is no intention, however, the rules, values, and policies that shape decisions may have discriminatory consequences.

For several years now, black and other racial minority people have insisted that systemic racism is a reality in the criminal justice system in Ontario. Concerns about racism were so strong that many people within affected communities have been losing confidence in the justice system. Instead of letting the situation deteriorate further, members of these communities lobbied the government, calling for a public inquiry to investigate their concerns. These efforts increased during the consultations that led to the release of Stephen Lewis’ *Report to the Premier of Ontario*<sup>1</sup> and resulted in the creation of the Commission on Systemic Racism in the Ontario Criminal Justice System.

## The Commission’s Mandate

The Commission’s Terms of Reference<sup>2</sup> direct us to investigate and make recommendations about those policies, procedures, and practices of the criminal justice system that may result in systemic racism. The Terms of Reference emphasize that the Commission must examine the experiences and vulnerabilities of all racial minority communities, but

\* The term “racial minority” is in the Commission’s Terms of Reference. We accept that many people in the communities to whom it is usually applied find the term inappropriate.

## *Introduction*

that our main focus should be racism as experienced by black people.<sup>3</sup> We have been told also to pay special attention to the experiences of women and youth.

The Commission has a large task. Where previous official inquiries into the operation of the criminal justice system in Ontario have concentrated on racism in policing, we are looking at the entire process from arrest to release following incarceration. Issues such as bail, legal aid, prosecutorial discretion, plea-bargaining, jury selection, sentencing, probation, and parole are important aspects of our work.

As directed by our Terms of Reference, we focus in this interim report on a part of the criminal justice system that many people find very troubling: the treatment of black and other racial minority prisoners in the correctional system. We will discuss our findings about other parts of the criminal justice process in our final report.

## **Scope of this Interim Report**

Although the correctional system is only one aspect of the criminal justice process, many issues merit investigation. Prisons are “total institutions” in which prisoners lose the power to make important decisions for themselves.<sup>4</sup> Prisoners depend on their keepers for personal safety and contact with family and friends. Food, health care, toiletries, and personal effects are available only through the prison authorities who also control access to work, rehabilitation programs, recreation, and association with others inside institutions. Prisoners’ lives are regulated by countless rules and their behaviour is closely monitored.

The Commission recognizes that dependence on prison officials is a general consequence of incarceration shared by all prisoners. However, the power of prison workers and management is such that specific prisoners or classes of prisoners can potentially be the object of adverse treatment. Thus our initial question was whether people knowledgeable about Ontario’s prisons could identify specific aspects of correctional policy and practice that might result in black and other racial minority prisoners receiving worse treatment than white prisoners.

The Commission looked for answers to this question in an extensive preliminary consultation process. Commissioners and staff talked to prisoners, defence lawyers, service and advocacy groups in the corrections field and correctional officials. We visited federal and

provincial prisons and received written submissions. These sources identified several areas of concern, including: discriminatory uses of punishment within prisons, parole and other early release programs, treatment and rehabilitation programs, the processes by which prisoners are placed in different institutions, and violence.

These concerns are all very important, and each is likely to have a significant impact on the prison experience of black and other racial minority prisoners. Unfortunately, the limited resources that we could devote to the interim report meant that we were unable to do justice to every topic. The Commission, therefore, decided to focus on three issues that were constant themes throughout our initial consultations:

- Racial hostility and intolerance in prison environments;
- Racial segregation of prisoners within and among prisons; and
- Racial inequality in the delivery of prison services.

### Organization of this Interim Report

This report of our investigations of these themes is divided into five parts. The remainder of the *Introduction* sets out the framework for our inquiry. It describes the rights to equality and fair treatment that are supposed to govern the experiences of prisoners, discusses some of the research challenges we faced, and outlines the methods we used to determine whether prison authorities and staff in fact respect these rights. We close this section with a statement about the relationship between the work of this Commission and the Aboriginal Peoples of Ontario. *Chapter 2* focuses on racial hostility and intolerance in prison environments. *Chapter 3* looks at the issue of racial segregation. *Chapter 4* deals with service delivery inside prisons. Each of these chapters begins with a brief summary of the nature of the problem as it was described to us during our initial consultations. We then present our research into that problem and analyze our findings. *Chapter 5* sets out our recommendations.

### Framework for Our Inquiry into Racism Behind Bars

There are different ways of evaluating how much social institutions are deformed by racism. In the case of government services such as the prison system one important question is *to what extent does the system, in practice, conform to values of fairness and equality?*

The general constitutional and legal framework for relationships between the state and citizens asserts that all government services ought



## Introduction

to be delivered with fairness and equality. Commitments to these values are also stated specifically in the policies of the Ministries responsible for the delivery of correctional services.<sup>5</sup> Clearly, imprisonment entails the loss of some personal freedom. However, the state cannot take away all of a prisoner's rights. Indeed, in 1980, the Supreme Court of Canada affirmed that prisoners in custody have the same rights, privileges, and freedoms as all Canadian citizens, except those rights specifically taken away by imprisonment. A majority of the Court stated that **"the rule of law will run behind ... [prison] ... walls."**<sup>6</sup>

The *Canadian Charter of Rights and Freedoms* states that **every person is equal before and under the law**. It also says that **every person is entitled to equal protection and benefit of the law without discrimination** based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.<sup>7</sup>

The *Ontario Human Rights Code* gives every person in this province the right to **equal treatment** without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, or disability.<sup>8</sup>

Constitutional principles that guarantee the basic value of equality in Canada have two important consequences for prisoners. First, except for the loss of specific freedoms, prisoners must be treated equally with people who are not prisoners. Secondly, the constitutional principles mean that there must be equal treatment of prisoners inside institutions. In short, *there is no legal justification for racial inequality within prisons or any form of racial discrimination against any prisoner.*

The mandate and policies of Ontario's Ministry of the Solicitor General and Correctional Services reinforce the constitutional and legal values of equality behind bars. The Ministry states that it will:

- "Provide correctional services to a diverse client/inmate group, in a manner which is fully consistent with the Government's policies on human rights and race relations, and in accordance with the *Ontario Human Rights Code*";<sup>9</sup>
- "Treat inmates in a responsible, just, and humane manner which recognizes their inherent dignity as human beings, promotes their personal reformation, development and socialization, and affords them the rights, privileges and protections prescribed by law."<sup>10</sup>

**Research  
Challenges:  
Measuring  
Equality  
Goals**

Among the commitments listed in support of these policy goals are the following:

- Inmates retain all the rights, privileges, and freedoms of a member of society, except those that are necessarily removed or restricted by the fact of incarceration.
- Correctional activities should be carried out in a manner which reflects the human dignity and worth of all persons involved in the correctional process.
- Inmates should not be harassed or discriminated against on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, or physical or mental disability.

The Commission faced some demanding challenges in attempting to measure to what extent the correctional system of Ontario meets its goals of racial equality and non-discrimination. Our primary challenge lay in the fact that the subject of racism generates intense and complex reactions. Victims and survivors of racism respond to deprivation of their rights with pain and anger. They may distrust government inquiries, suspect the motives of researchers and experts, and resent exposing their anguish to public scrutiny. In addition, many victims and survivors of racism feel frightened and powerless. Often a reluctance to speak out is based on the knowledge, drawn from experience, that there will be reprisals.

The responses of those who may be responsible for institutions that perpetuate systemic racism typically range from mild apprehension to fear. Officials and workers may be concerned about their reputations, their jobs, and their careers. They do not want to be unjustly accused and worry that outsiders will not understand the difficulties of working within the prison system.

**Systemic  
Racism**

These difficulties are intensified for research that aims to study *systemic* racism. To expand on our earlier definition, the existence of systemic racism in social processes such as the criminal justice system would require two elements: first, pervasive biases built into the structure and operations of the social institutions and processes; second, differential treatment as a result of these biases.

## Introduction

The relevant biases are based on the mistaken belief that people can be divided into distinct racial groups by reference either to superficial physical differences (such as skin colour, facial features, and hair texture) or to perceived cultural practices. Such differences are then taken to be significant and are used to classify “racial groups” in terms of the *groups*’ possession of desirable or undesirable social characteristics. Not surprisingly, in any given society, people who make these assumptions tend to think that members of their own “racial group” are *superior* to people in other “racial groups.” A less openly hierarchical but equally damaging way of classifying people is to think that one’s own group represents “normality” and that members of other groups are, in some way, “strange,” “deviant,” or “threatening.”

Assumptions about “racial inferiority” and “racial superiority” or about “normality” and “difference” may not be held consciously. Rather, those who hold such beliefs may never have questioned ideas they absorbed in school or from their relatives and friends. Often we are unaware that we assimilate subtle messages about “race” from the communities in which we live and that if we are to avoid racist assumptions, it is necessary to confront and challenge these messages.

Simple beliefs about racial groups, although they contradict liberal ideals, are not in themselves the main targets of critics of *systemic* racism. Beliefs alone do not harm other people. It is when racist assumptions are linked to physical, political, social, or economic inequality that serious consequences arise. This linkage may be expressed in terms of “power relationships” and it is in the context of such power imbalances that the impact of racism is most severe.

In society some individuals have greater control than others over access to the resources which we all need to survive and to live with dignity. Canadian governments have recognized that limits must be placed on those who control such resources so that they are not withheld unjustly. Led by Ontario, every jurisdiction in Canada now has human rights legislation. These important pieces of legislation were introduced, in part, because it was found that many people who controlled vital resources such as jobs and housing were acting on racist beliefs when making decisions about who could access these necessities of life.

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\* Occasionally in this report, race-related terms are placed in quotation marks for emphasis.

The invidious consequences of racism in the criminal justice system are even greater because of the coercive force which its officials are authorized to exercise. Our system, built on the foundation of homogenous Anglo-Saxon and Christian values, has not changed significantly over the past century. Many of its basic concepts and principles have served us well and will continue to do so in the future. However, our system must be inclusive of racial and cultural differences if it is to sustain the respect of all Canadians. Historically, the dominance of French-speaking Canadians in Quebec has ensured their full participation in the criminal justice system of that province. It is only recently that French-speaking Canadians have gained greater equality rights in the criminal justice systems of other provinces. Similarly, it is only in recent decades that members of other European ethnic groups have achieved influential positions within the criminal justice system and only in the past few years that members of black and other racial minority communities have begun to achieve some representation.

Given this history, there is a danger that the laws, the machinery, and the culture of criminal justice may be based on assumptions about the “superiority” and “inferiority,” “normality” and “deviance” of people from what are believed to be distinct “racial groups.” Because people of European heritage are the dominant “racial group” in Canadian society, it is their physical characteristics (particularly white skin) and cultural practices that may be treated as “superior” and “normal.” By contrast, people of Aboriginal, African, Asian, and South Asian ancestries may be viewed as “different” and, in some senses, “inferior.” It is of fundamental importance that such assumptions play no part in the administration and culture of Ontario’s criminal justice system.

### **Researching Systemic Racism**

Traditional methods of social research typically focus on the behaviour of individuals or on the goals and operation of individual parts of complex systems. As such, they may help shed light on some very important aspects of the machinery of criminal justice. For example, standard social and legal research methods can be used in several ways: to identify specific officials in the criminal justice who act in openly racist ways; to ascertain whether there is explicit racial bias in some operational practices; and to determine whether the system processes disproportionate numbers of individuals from certain “racial groups.”



## Introduction

Each of these findings would be highly significant to a claim of *systemic* racism in criminal justice processes. However, the claim that systemic racial bias is built into the structure of the criminal justice system is difficult to prove or disprove. It may be argued that such findings do not prove the existence of fundamental structural bias. It may be recognized that there are racist officials in the criminal justice system “just as there are in society at large”. It may also be accepted that there are problems with operational practices that must be changed. Finally, evidence that individuals from some “racial groups” are disproportionately caught up in the system is sometimes dismissed as reflecting the “characteristic behaviour” of those individuals rather than the biases of the criminal justice process.

However, the same findings may reflect deeper concerns. There may be underlying patterns of racism in the system, not just a few “bad apples.” It may not be enough, therefore, simply to get rid of overt racists. *Systemic patterns must be identified and policies and procedures implemented, enforced, and monitored to eliminate them.*

Systemic patterns can emerge in a variety of ways. For example, much of what happens in the criminal justice system is a result of subtle, low-visibility judgments made by staff and officials. Such judgments can reflect unconscious assumptions about the “superiority,” “inferiority,” “normality” and “deviance” of “racial groups.” These judgments may also be reinforced by frequent application and accepted automatically by new staff until they become entrenched in the system. Despite its formal emphasis on an open process, the criminal justice system is largely closed to outsiders. It is not, in practice, very accountable. Thus there may be little way of guaranteeing that new policies and procedures will be effective.

Moreover, many of the “rational” norms by which officials in the system make decisions about accused persons may appear to be neutral, when in fact the values on which they are based may reflect privileges of “race,” class, and gender. As a result, people from under-privileged groups, such as working class black and other racial minority communities, may be treated more harshly than those who share the backgrounds of the decision-makers.

Finally, criminal justice processing involves a series of decisions about accused persons made in sequence by distinct groups of officials. This

means that no one may be responsible for ensuring that the process is untainted by racism. Thus independent decisions, each of which is justified by the norms governing the decision-maker, may, when taken as a whole, result in differential treatment of people from dominant and minority communities.

There are very real concerns within black and other racial minority communities about systemic discriminatory treatment by the criminal justice system. If confidence in the system is to be maintained, these concerns cannot be dismissed as “mere perceptions” based on inadequate knowledge of the complexity of the criminal justice process.

## **The Research Strategy**

The mandate of this Commission is to take seriously the proposition that there is systemic racism in Ontario’s criminal justice system. Our responsibility to the people of this province is to report on the extent to which it is possible to identify systemic racism in the processing of criminal cases and, where systemic racism is found, to develop recommendations for change. Thus, the research strategy for this study of the correctional system was intended to take into account the full range of issues raised by critics of systemic racism. Specifically, we wanted to know to what extent:

- Explicit or implicit racial bias occurs in the operational policies of the prison system;
- Low-visibility judgments by workers in the correctional system reflect assumptions about the superiority, inferiority, normality, and deviance of “racial groups”;
- Apparently neutral decision-making principles reflect race privilege; and
- The correctional system condones racism by failing to hold officials accountable for racism in prisons.

In designing the research strategy, the Commission also faced the problem of a lack of Canadian precedents for the type of study that we envisaged. Only recently have some provincial governments conducted official studies of racism in criminal justice systems. These studies have tended to concentrate on policing and, to a lesser extent, the trial process rather than on prisons. Moreover, many of these inquiries were prompted by recognition of particular failures in the criminal justice process that harmed specific individuals. Clearly, reports such as those

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of the Donald Marshall Jr. Inquiry<sup>11</sup> in Nova Scotia and the Inquiry into the Criminal Justice System in Manitoba<sup>12</sup> ultimately ranged well beyond the triggering events. However, the initial research strategies in both inquiries could draw on recognized investigative techniques for discovering “the truth” about particular incidents. This Commission was unable to rely on such techniques. Indeed, our Terms of Reference state that we were not to examine allegations of individual wrongdoing.

A further challenge for the Commission was the requirement that we should begin our work with a study of prisons. There are three broad phases of the criminal justice system in Ontario: investigation, trial, and corrections. Many issues that are relevant to prisoners’ experiences follow from decisions taken at earlier stages of an investigation or during a trial. Those responsible for prisons therefore have no control over the processes by which people are sent to prison. Ideally, a study of corrections would take account of decisions that have been made during investigation and trial processes, recognizing that prisons should not be seen in isolation from other parts of the criminal justice system. Unfortunately, because of our Terms of Reference the Commission was not able to study, for the purposes of this interim report, all aspects of the links among prisons, investigative procedures, and trial processes. We should stress, however, that our inability at this time to make such connections does not in any way weaken our findings. In any event, investigative and judicial processes will be included in the final report. At that point we will return to some of the correctional issues that are not covered in this report.

Given the general nature of our mandate and the specific issues identified for this interim report, we decided that our methods for gathering information ought to be informed by certain values and commitments. The Commission carefully explored potential research strategies that would allow us to identify and highlight similarities and differences in the experiences of incarcerated adults and youth from black and other racial minority communities. We also decided that our research should:

- Draw on the experiences of as many people with personal knowledge of prisons as would be possible in the time we had available; and

## Research Methods

- Recognize that there may be substantial differences among the 85 institutions<sup>13</sup> that make up the adult and youth prison\* system in Ontario.

Social scientists recognize the value and validity of research based on structured interviews and focused discussions with individuals and groups. These methods allowed the Commission to compare and contrast the responses and experiences of prisoners, front-line staff, prison superintendents, classification officers, senior correctional administrators, defence lawyers, and representatives of community and advocacy groups. Because we gave people from different constituencies opportunities to comment on information obtained from other groups, we could draw on the experience of those within the system to validate our data and refine our interpretations. In addition to holding interviews, the Commission made numerous observation visits to prisons, received written submissions, and conducted an extensive review of domestic and foreign academic literature, government reports, and policy documents.

### Youth

Consistent with our concern to focus on youth, we devoted considerable resources to our research into the experiences of people imprisoned in closed custody institutions for young offenders. The Commission made informal visits to six young offender prisons where we met and spoke with staff and prisoners. We also held structured interviews with 131 young offenders (of all races) in seven prisons and 32 staff members at the same institutions. We talked to senior management at young offender prisons and interviewed staff of the *Office of Child and Family Service Advocacy* ("The Child Advocate").<sup>14</sup> Finally, the Commission held a number of research focus groups, including two sessions for youth who had some prior experience of incarceration and a focus group for community workers and advocates who work with young offenders.

\* Official correctional terminology uses many different words and phrases to describe penal facilities; jail, detention centre, correctional centre, treatment facility, correctional centre, campus, etc. Because of community perceptions that they are all prisons regardless of what they are called, we have chosen to use this word throughout, unless the context requires that we use a different term.



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Much of our research into the problems of youth from black and other racial minority communities in the prison system concentrated on institutions for 16- to 17-year-olds ("Phase 2" institutions) that are operated by the Ministry of the Solicitor General and Correctional Services. However, in light of the *Report of the Office of Child and Family Services Advocacy: Care of Youth at Thistletown Regional Centre Syl Apps Campus*<sup>15</sup> we decided that it was also very important to interview prisoners and staff at secure custody institutions that house 12- to 15-year-old youths who are in conflict with the law. These prisons, known as "Phase 1" institutions, are operated by the Ministry of Community and Social Services.

### Women

Adult and young women make up less than 10% of the prisoners in Ontario. The Commission made a number of visits to Vanier Correctional Centre, the only provincial prison exclusively designated for women prisoners sentenced in this province. We interviewed the superintendent, adult women prisoners, and young offenders. We also talked to young women prisoners in detention centres, to both staff and residents of community residential centres for women, and to women incarcerated at the federal Penitentiary for Women in Kingston.

### The Relationship between the Commission and Aboriginal Peoples of Ontario

In our information booklet, we said that the Commission is not formally consulting with Aboriginal Peoples about the problems of Aboriginal people in the criminal justice process. We understood, from the Government of Ontario, that the concerns and issues of Aboriginal Peoples in this province are being addressed through the political relationship between the province of Ontario and the First Nations Chiefs of Ontario.

We have since been told by some Aboriginal people that this is not the case. We understand that many Aboriginal people do not believe that the government of Ontario is dealing with their issues. In addition, many off-reserve Aboriginal people do not feel that they are represented by the First Nations Chiefs of Ontario and those affiliated with the First Nations Chiefs. We now understand that even if the Nation-to-Nation relationship between the province and the First Nations Chiefs is working effectively, there are substantial numbers of

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Aboriginal people in this province who feel excluded from that relationship.

The Commissioners recognize that our earlier explanation was based on inadequate information and we apologize for any offence that this may have caused the Aboriginal Peoples of this province. We would like to thank those Aboriginal women and men who came forward and shared their views.

As a result of discussions with some members of Aboriginal communities and organizations in Ontario and our review of existing studies of Aboriginal Peoples and the criminal justice system, we learned that many Aboriginal people do not want more studies, inquiries, task forces, or reports that document “the problems.” Instead, they want action on the many solutions that have been proposed and endorsed by Aboriginal Peoples over the years. Thus the Commission has come to the conclusion that the experiences of Aboriginal people in the criminal justice system should not be a major focus of our work. However, we will not exclude Aboriginal people who would like to be part of this process. Several Aboriginal prisoners wanted to meet us on our visits to prisons. These prisoners were included in our interviews and their insights and experiences have informed this report.

*Toronto Jail*



*Metropolitan Toronto  
East Detention Centre*



*Metropolitan Toronto  
West Detention Centre*



## Chapter 2 Racism Behind Bars: Hostile Environments

### Research Focus

We were told repeatedly during our initial consultations that the environments of many Ontario prisons, particularly in the greater Toronto area, are very hostile for black prisoners and staff. It was said that in some places overtly racist language is used constantly, racial stereotyping is common practice, and correctional officers (COs)\* use excessive force against black prisoners. When we asked how prison management deals with these alleged problems, we were informed that the most common management response is to remain deliberately ignorant.

In investigating this problem we wanted to know:

- Whether there are practices in Ontario's prisons that create racially hostile or intolerant environments; and
- The effects of prison environments on relationships inside prisons.

It was clear to the Commission that the only way to answer these questions would be to gather and analyze information about the experiences of people within the prison system. Thus we decided to hold individual and group interviews with:

- Adult male and female prisoners from black communities, other racial minority communities, and white communities;
- Young male and female prisoners from black communities, other racial minority communities, and white communities;
- COs, most of whom are white and male, although there are a very few men and women from black or other racial minority communities;
- Prison managers and superintendents, almost all of whom are white.

### Hostile Environments: What We Found

#### Racist Language

Almost all staff and prisoners agree that blatant racist language "goes with the prison territory." Although prisoners differed in how serious they feel the problem to be, we were given at least one example of overtly racist name-calling in every adult prison we visited. We heard

\* Correctional officer is the term currently used to describe prison guards and other correctional workers.



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the same things in youth prisons, including “Phase 1” institutions housing 12- to 15-year-old young offenders. Prisoners and COs gave us the following examples of commonly-used racist names, particularly in prisons for adult males and male young offenders.

Nigger	Gorilla	Nig
Monkey	Porch Monkey	Buck Wheat
Spook	Boy	Oreo
Zipperhead	Spade	Jiggaboo
Spearchucker	Gook	Jigger
Drug Dealer	Coon	Greasy Hand
Jungle Bunny	Cotton Picker	Pimp
Spic	Amigo	Paki
Camel Jockey	Chief	Chink
Wagon Burner	Yellow Bastard	Savage
Coolie	Half-breed	Chicken George
Kunta Kinte	Blackie	Chin

We heard countless examples of COs using this type of language in their exchanges with prisoners. Black and white prisoners as well as COs agreed that COs routinely use these names when talking to or about black and other racial minority prisoners and sometimes when talking about their black colleagues. A typical incident, reported by a prisoner at a large men’s facility which houses many black prisoners, illustrates just how casually racist names are used. This prisoner told a CO how much he thought she had changed since she had started working there. He felt that she had, at first, treated black prisoners very poorly but that “her attitude had improved a lot.” The CO responded by saying that she didn’t mind the prisoner who had approached her because he was “different from the niggers.”

A second example, reported by a prisoner at a different institution, graphically illustrates the contempt for black and other racial minority prisoners that underlies racist language behind bars. The prisoner, a man of South Asian heritage, complained to a CO because he had been the last person to be escorted to the showers, but the CO was insisting that he be the first to finish. The CO responded to his complaints by saying: “You can scrub as hard as you want, that colour won’t come off, you camel jockey.”

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The Commission was also told over and over again that some COs in women's and men's prisons are particularly insulting to prisoners whom they believed to be of Jamaican and Vietnamese heritage. The two examples that were given on many occasions were: "Fucking Vietnamese troublemaker" and "Fucking Jamaican troublemaker." Black female and male prisoners also reported that COs used "Jamaican" constantly, both as a term of abuse and as a way of describing the "worst" prisoners in their facilities. According to many black women, for example, COs who treat them fairly courteously say "You're OK, you're not like the Jamaicans."

Prisoners reported that racist name-calling among themselves varies from institution to institution. Most black prisoners felt that there are big differences between COs' and prisoners' use of racist language for two reasons. First, because other prisoners do not have the same power as COs, prisoners' use of racist language feels much less painful and alienating. Second, because the prisoners from different racial groups are more or less on an equal footing, black prisoners can always retaliate by calling the white prisoners names. In contrast, black prisoners who challenge COs' uses of racist language risk being disciplined for answering back. One young man making this point said: "It's different being called nigger on the street because you can explain your viewpoint. In here, you say anything to a [CO] and you're in trouble."

Racist names are not only directed at individuals but are also used to label groups of prisoners. COs told us that in many adult male prisons, racist names are used for units that house black and other racial minority prisoners. Some white and black COs said that they dislike these terms but emphasized that the names are well-known and commonly used. They gave us these examples:

- The Jungle
- Monkey Range
- Madhouse
- Animal House
- Bumboclot Range
- Chinatown

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### Staff Perceptions of Racist Language

Many prison workers were quite frank with the Commission, describing language that they had heard and probably used. Their accounts of the prison environment are very close to what we had been told by white, black, and other racial minority prisoners. We therefore have a great deal of confidence in these observations and experiences.

However, a few COs did not agree that they and their colleagues use racist language. When we gave these officers examples of comments that had been made by prisoners in their institutions we received responses such as: "Correctional officers treat inmates with a great deal of humanity ... In some cases they ... [are] ... the only ones to treat some inmates as humans"; and "Correctional officers with hostile attitudes do not last very long in the system." Some COs reminded the Commission that prisoners are "criminals ... [who] should be treated as the outcasts from society that they are." These COs claimed that only prisoners use racist language in prisons.

Some senior managers and superintendents also said they do not know that COs in their facilities use racist language. For example, a senior manager told us that the term "the jungle" had not been used in a prison since 1983, when, according to this official, the Superintendent of the Toronto Jail had "abolished the term in a very public way." A superintendent explained that people in his position cannot possibly know everything that is happening in their facilities because prisons are "paramilitary organizations". His point was that in most large prisons there is a "culture" or "operational closeness" among COs which means that "you can't expect [COs] to offer information on one another".

### Racist Language Used Against Staff

It is clear that while black prisoners are the primary targets of racist language within institutions, black staff also suffer. The Commission heard of several incidents in a number of prisons where black workers' lockers or desks, located in areas that are used only by prison staff, were defaced with racist graffiti such as "nigger," "gook," and "KKK."

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Prison staff gave many illustrations of racist language directed against black workers. Three examples, drawn from the Commission's group interviews, provide a sense of what we heard.

- A black correctional officer, explaining why he feels some hostility toward black prisoners, said:  
I think I get more pissed off when I see a black inmate coming through the door.... As soon as they start with attitude, then what you get from the white officers is, "All niggers should be dead." And I'm sick of putting up with it.
- A former correctional officer, speaking of his experiences in a large Toronto area prison, talked about this response to his complaints about racist language in his workplace:  
My supervisor, if I complained about that term [the jungle], said: "You have a chip on your shoulder. I can joke around all the other black guys, call them nigger, black shit, and they just laugh".
- Another former correctional officer, a white man, described what he saw at a Toronto area prison:  
There was a black officer at [X institution] who was appointed a training officer for the facility. The day after his appointment was announced, a picture of him made up to look like a monkey holding a banana, was put up. No one said or did anything.

### **Racial Stereotyping**

Female and male prisoners, youth and adult, complained constantly and bitterly about racial stereotyping. They said that in most institutions COs make judgments about the characters, lifestyles, interests, and personal histories of black and other racial minority prisoners. Such judgments, we were told, are based on nothing more than skin colour and, perhaps, accent. They are almost always negative and are deeply resented by the prisoners. Black prisoners felt quite strongly that white prisoners do not face the same problem of negative stereotypes based purely on "racial attributes" and speech.

Prisoners said that many COs assume black people are stupid. One male prisoner told us that when he registered for an educational program, a CO commented: "What's this world coming to? A black



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man is doing advanced math.” We were told by several black prisoners that many COs discourage them from taking educational programs. This theme of black people’s “stupidity” recurred again and again and was particularly vivid in the comments of male and female prisoners who speak in Jamaican dialect. Prisoners also talked about COs being surprised when black prisoners are articulate and knowledgeable.

Many female and male prisoners felt that COs believe all black people are the same. This comment by a Canadian-born black male prisoner typifies what we heard:

The COs assume that I am Jamaican and will talk to me in a mock Jamaican accent. The COs are more condescending than the white prisoners. Another time MuchMusic was playing some rap music. The CO said: “Do you know this group?” I said: “no.” The CO said: “What? He’s a brother, isn’t he?” They just assume that all blacks are the same.

Prisoners at another facility reported that black men are frequently assigned to kitchen duty. Those who complained about the assignments said they were told: “All you black guys can cook, so you’re going to the kitchen.”

Black prisoners are not the only victims of racial stereotyping in prisons. Male prisoners of Asian ancestry told us that they are commonly viewed as cunning and devious. Young Asian women talked about racial imagery and COs’ comments about their supposedly “exotic” sexuality.

Young male Aboriginal prisoners told us that staff constantly refer to “lazy Indians.” We also heard that the Aboriginal communities of this province are stereotyped as being full of “welfare bums,” “losers,” and “criminals.”

### Sexual Stereotyping

Black women were particularly concerned about sexual stereotyping and gave the Commission many examples of staff comments about their supposed immorality, promiscuity, and sexual instability. Women who are mothers said that COs regularly ask if they know the names of the fathers of their children. Young women from black and other racial minority communities repeatedly complained that COs, acting on racial

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stereotypes, sexually harass and assault them.<sup>16</sup> These young women feel trapped by stereotypes. If they complain, they are dismissed as “troublemakers”; yet by tolerating this behaviour, they reinforce the COs’ belief that women from their communities are sexually “loose.”

Black male youth also experience sexual stereotyping. Many young men reported that they are called “perverted” because they wear their pants “too low” or walk “too close” to other black youth. They also told us about incidents of sexual assault scenes featuring black men being shown in movies and COs making comments such as: “Hey, is that you up there on the screen?” Several black youth complained bitterly about a comment which many COs seem to think is funny: “Your mother is like an arcade: three men for a quarter.” Other black youth told us that COs watch them in the showers and joke about their genitalia.

### Stereotypes about Violence and Criminality

Many male black prisoners, adult and youth, talked about being stereotyped as noisy, aggressive, and violent. Some strongly resent the assumption that they are “loud and disorderly.” These prisoners said that if they are themselves and do not conform to the stereotypes, they are thought to be “putting on airs” or to “having an attitude problem.” Such perceptions, they said, then make the prisoner a target for bad treatment. Other prisoners believe it is safer to play along with the COs’ assumptions. They deliberately talk loudly with their friends and “hang out” in groups.

However, this behaviour also is unacceptable to prison staff. Black prisoners made the point that COs are much more threatened by clusters of black men than by groups of white men. COs, we were told, move quickly to break up a group of black prisoners when there is absolutely no indication of trouble, while an equivalent group of white prisoners is left alone. Thus black prisoners face the dilemma of acting individually and being characterized as “having an attitude problem” or conforming to the COs expectations and not only receiving differential treatment but also reinforcing a negative stereotype.

Even the youngest prisoners experience this dilemma. Consistent with the findings of the *Syl Apps Report*<sup>17</sup> the Commission heard repeatedly that the stereotype about black prisoners being aggressive and dangerous is found among workers in many prisons for 12- to 15-year-

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olds. For example, a staff member in such a prison was extremely concerned about his colleagues viewing simple groupings of black male prisoners as dangerous. He told us: "I have seen units become very tense because staff have seen two or more black youths socializing together. Staff have had to call emergency meetings to discuss this because they were afraid of a riot or that the youths were planning ... to beat staff."

Another dominant stereotype, according to prisoners, is the supposed criminality of black people. We were told that prison staff constantly make comments to the effect that black communities are prone to "a criminal lifestyle" and that such remarks are found even in prisons for the youngest prisoners. These comments are typical examples of what we heard:

- "If it wasn't for you black guys, crime wouldn't be so high." [Black male prisoner]
- "A white staff said to me, 'I hear Regent Park and Jane and Finch are the crackhead and murder capitals of the city. And this is where you black guys live.'" [Black male youth]
- "When staff are talking to us about life, they always warn us not to come out like the black guys, who do so much robbery and crime." [White male youth]

This stereotype about black criminality was vividly brought home to Commission staff when they visited a youth facility, the Bluewater Detention Centre, for the purpose of conducting this research. After the black staff members had identified themselves as researchers with this Commission, the CO on duty insisted on searching their car. The explanation that the CO gave for her actions was that she wanted to be sure that the Commission staff did not have guns with them. Upon departure from Bluewater, the male CO on duty also wanted to search the car. When our researchers asked why, he responded that he needed to be sure that they were not smuggling youth out of the facility.

### Staff Perceptions of Stereotyping

When asked about stereotyping in prisons, COs gave contradictory responses. Some denied that it took place, saying that "we treat everyone the same." Other denials took the form of claims that "we treat everyone as an individual."

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Several COs agreed that they and their colleagues do make judgments about individual prisoners based on the “racial group” to which they assume the individual belongs. To these COs, however, such judgments are not “stereotypes” but empirical “facts” drawn from their experiences of prisoners.

It was clear to the Commission that the prison environment is plagued by generalizations about individuals from black and other racial minority communities based on their “race.” In our interviews with COs, and to a lesser extent with management, we constantly heard comments such as “Jamaicans are like ....,” “Blacks are always ...,” “West Indians do not ...,” “Chinese inmates ...,” and “Vietnamese youth ...” One senior prison administrator, who agreed that negative stereotypes about black prisoners in particular are common in prisons, summed up the situation by saying that: “Blacks are feared, considered dangerous.”

Only once did the Commission hear of behaviour being ascribed to white prisoners simply by virtue of their ethnicity. Not surprisingly, these prisoners were from a white community that is often stereotyped as containing a significant “criminal element.” In other instances where negative judgments were made about white prisoners, the behaviours or characteristics were linked to their offences rather than “race” or ethnicity.

### **Denial/Contempt for Culture and Cultural Identities**

A more subtle, but no less real, form of racism behind bars is the denial and/or contempt for the cultures and cultural identities of prisoners from black and other racial minority communities. Prisoners in youth institutions, in particular, gave us countless examples of occasions when the beliefs, habits, languages, or customs of their communities had been mocked or otherwise treated with disrespect.

### Religious Practices

The Commission was told that in many institutions, prisoners’ religious practices are treated with contempt. We will talk about general issues concerning access to religious observance in our discussion of prison services in Chapter 4. Our focus here is on staff attitudes toward and verbal abuse of prisoners whose faiths are other than Christian.



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Staff and prisoners said that Rastafarians are treated very badly in many Toronto area prisons and that in some prisons, managers are just as much at fault as COs. We were told by one white CO, for example, that: "In my institution, the managers see Rastafarians as a pain in the ass. They say: 'Here we go again, these guys who don't want to eat pork.'" This CO went on to make the important observation that such attitudes on the part of management quickly filter down to line staff.

Two aspects of the Rastafarian faith seemed to be particularly vulnerable to insult: the pork-free diet and the prohibition against the cutting of hair. Time and time again Rastafarian youth told us that staff had ridiculed their hair, describing the distinctive locks as "disgusting," "dirty," "like worms," or "a bee's nest." One former correctional officer made an interesting observation. He felt that the mockery of Rastafarianism in men's prisons is not based on religious beliefs but instead reflects hostility toward prisoners of Jamaican ancestry. He was adamant that "there is a very great anti-Jamaican bias" in men's prisons and youth facilities.

Black and other racial minority prisoners of Muslim faiths also talked about COs' contempt for their beliefs. Muslim youth, female and male, told us that white staff laugh at the name of their God or insist that they eat pork, saying: "There is nothing else and anyway a little piece of pork won't hurt"; or "Pork won't kill you." Another young Muslim said that when he told prison staff that he needed to observe the holy month of Ramadan, the response was that: "This is not a Muslim place and if you wanted to practice your religion you should not have committed a crime."

### Language

Language, like religion, is an important aspect of cultural identity. We heard repeatedly that Aboriginal, black, and other racial minority prisoners' use of their mother tongues and dialects routinely attracts the contempt and hostility of the COs. One young man of Latin American heritage even told us that he was confined to his room for 24 hours as punishment for speaking Spanish.

Female and male prisoners, adults and youth, said that non-Canadian dialects and accents, particularly Jamaican patois, are constantly mocked and caricatured. We were also told several times that COs

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target prisoners who do not have standard Canadian accents for comments such as: “Speak English properly”; “Go home and come back when you’ve learned the language”; or “This is Canada - don’t speak like that.” Finally, prisoners whose preferred languages or dialects are neither English nor French complained that COs do not allow them to talk among themselves or with friends and families in their languages and dialects of choice.

### Staff Perceptions of Cultural Denial and Contempt

There was little response from COs or administrators to the allegations about mockery or caricature of prisoners’ accents and languages. However, staff and management from many institutions did agree that they prohibit the use of certain languages and dialects. The explanation we were given was that “security concerns” made it necessary to restrict prisoners’ rights to express themselves.

Security is obviously a significant operational concern inside prisons. We can imagine that there are circumstances where “security” is seen as more important than the prison system’s commitment to treating all prisoners “in a ... manner which ... affords them the rights, privileges and protections prescribed by law.”<sup>18</sup> In the light of our research, however, there are two reasons why the Commission finds the “security” explanation unpersuasive.

First, there are striking variations among prisons in the extent to which Aboriginal, black, and other racial minority prisoners face restrictions on their linguistic rights. Prisoners of Vietnamese heritage at the Toronto Jail (a large prison that mostly houses adult men awaiting trial) reported that COs do not object to them using their mother tongue among prisoners or with family and friends. Black prisoners in the same facility did not experience any difficulties when they use their languages and dialects of choice. By contrast, prisoners and staff at almost all of the other facilities for adult men said that non-Canadian dialects and languages other than English or French are forbidden. As the charges of prisoners at the various prisons are similar, it is unclear to the Commission why “security” would cause prisoners at places other than the Toronto Jail to lose their rights to freedom of expression.

Second, enforcement of the demand that prisoners communicate in a language understood by prison staff is inconsistent. In particular,

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although most prison staff are not bilingual in English and French, we were told that prisoners whose mother tongue is French are not prevented from using that language in private conversations. The Commission was relieved to hear that the prisons of Ontario afford linguistic freedom to francophone prisoners. However, we found it nonsensical that “security concerns” meant that the same rights could not be granted to prisoners whose language or dialect of choice is neither French nor Canadian English.

The Commission agrees with the official at a youth prison who told us that prohibitions on languages other than English and non-Canadian dialects are out of date and insensitive to the needs of black and other racial minority prisoners and their families.

### **Attempts to Deal with Racism: Accusations and Frustration**

When asked general questions about racism in their facilities, superintendents usually talked about prisoners’ behaviour. Sometimes these responses would highlight racism among prisoners; just as frequently we were told that black prisoners in particular are very quick to accuse prison staff of racism. This comment was made by a senior manager of a youth facility in answer to the question “How do you deal with allegations of racism, of racist treatment?” It is a good example of what we heard in other institutions as well:

With residents, it would be dealt with through conflict resolution techniques or through the behaviour management system. Sometimes, when a resident does something wrong and you point it out, they call it “racism.” The answer to that is, everyone here makes their bed, it doesn’t matter who you are, what race you are. The rules are applied evenly.

Other managers admitted that they feel enormous frustration with the problem of overt racism in their facilities. They told us they lack the tools to deal with the problem effectively. These superintendents complained about the difficulties they experience in finding out exactly what is happening in their prisons. They also said that attempts to discipline racist behaviour among COs are likely to be challenged in a formal grievance process and would, inevitably, make labour-management relations worse.

## Conclusions

One superintendent said she had attempted to be proactive by posting Ministry policies throughout the prison “so it’s clear that there is no tolerance for racial slurs.” The same superintendent also invited race relations trainers into the institution “to teach the staff about attitudes [and] the proper approach to race relations issues.”

It is clear from our evidence that *racist language and attitudes plague the environments of many Ontario prisons. The Commission does not accept that racial stereotypes are ever merely benign observations drawn from experience.* We are confident that most Ontarians share the Commission’s view that such language and attitudes are completely unacceptable.

It would be easy to “blame the victim” and to think that prisoners have brought all their troubles upon themselves. It would also be wrong. All prisoners, whatever their “race” or ancestry, are entitled to be treated with decency.

It would be easy to conclude that the problem is simply a few racists among the prison staff. It would also be wrong. The racism we have described is pervasive and cannot be blamed on a small number of individuals in need of “re-education.” Moreover, while the Commission encountered a few staff members who made comments such as, “All inmates are ... worthless.... How can you discriminate against a criminal? He is in jail...”, such views were not typical. Instead, many staff who admitted to having used racist language said, in good faith, that they would like to see change.

It would be easy to believe that the racially poisoned environments can be eliminated by the development of a race relations policy. It would also be wrong. The Correctional Ministries have long been committed at the policy level to human rights, including the rights of prisoners to be held in a safe and healthy environment and to be free from harassment and discrimination. More specifically, the Ministries have in place Race Relations policy statements.

Far more persuasive than any of these easy responses is the comment of a former CO, a white man, who said:

... [T]here is a very high tolerance of racist attitudes and racist jokes throughout the system. Things happen and no one says anything at all. No one would think of saying anything.



## ***Racism Behind Bars: Hostile Environments***

*The Commission believes that it is not a few individuals but the culture of corrections that must change. We conclude that while some prison staff use racist language and stereotypes “because everyone does it,” for others, this type of behaviour is a means of maintaining control over prisoners.*

*The Commission also believes that managers’ “ignorance” of the problem, their silence, and their failure to take preventive action contribute to the survival of racially poisoned environments. We are concerned that so many senior officials said they do not know about the same racially hostile environments that their staff quite openly describe. We are troubled that some officials replicated, as facts, racially damaging stereotypes. We find it disturbing that some officials, when confronted with evidence of racism in the environments of the prisons they manage, immediately focused on the behaviour of prisoners rather than on the behaviour of staff.*

*One of the limitations of existing management practice is that racism is simply not defined as a significant problem. Instead, it is tolerated as, perhaps, a price that must be paid in order to maintain peace and order. An English study of racism in prisons, which made comparable findings to those revealed by our investigation, comes to a similar conclusion. The authors maintain that the failure to identify racism as a problem:*

*... has ... to do with the sets of priorities which operate in prison.... The overriding concern with management and control has led prison staff to define as problems only those issues which represent an immediate threat to the smooth running of the establishment.<sup>19</sup>*

*Elaborating on this theme, the authors comment that prison staff:*

*... emphasize the goals of good order and discipline, and management objectives associated with the efficient running of their establishments at the expense of those goals which are concerned directly with prisoners’ treatment and welfare.<sup>20</sup>*

*We have found no evidence that racist practices are necessary to maintain order in prisons. On the contrary, the negative feelings, adversarial relationships, and hostility generated by such practices can only contribute to dissension, conflict, unrest, and instability.*

## *Racism Behind Bars: Hostile Environments*

The Commission agrees with the senior Ministry official who told us that the prison system needs, as its managers:

... a group of people who are not imbued with the [existing] institutional culture. [Individuals] who can provide appropriate role modelling for their staff .... If a superintendent is not committed to racial equality, and to gender equality, then there is no way that institution can change. We need [in managers] an aggressive commitment, a conviction, a belief in the value and the worth of people.

In view of what we have found, some might think that the only solution is to replace existing management. The Commission hopes that a less drastic approach will succeed. *We believe that among the existing management of the prisons in Ontario, there are men and women who are capable of rising to the challenge of eliminating racism. What is required is an "aggressive commitment" to this goal.*

*Hamilton-Wentworth  
Detention Centre*



*Ontario Correctional  
Institute-Brampton*



## Chapter 3 Racism Behind Bars: Segregation in Ontario Prisons

### Research Focus

During our initial consultations, many people told the Commission that racial segregation in living accommodation and work or program assignments is a significant problem in the prisons of Ontario.<sup>21</sup> Confirmation that we should investigate this issue emerged during our early visits to institutions. We observed that in many institutions prisoners are assigned to living quarters in such a way that the populations of some units are predominantly black and others are predominantly white. In addition, there seemed to be high concentrations of black male prisoners at certain institutions and conspicuously few in other prisons serving the same geographic area. When we asked senior officials in the Ministry of the Solicitor General and Correctional Services (MSGCS) about these observations, the Commission was told that placement decisions in the prison system are based on neutral criteria and that “race,” “ancestry,” or “ethnic origin” are irrelevant to placement.

The Commissioners decided to inquire further into what we had seen and been told about the practice of racial segregation in Ontario’s prisons and, in particular, to investigate:

- The extent of the patterns of racial grouping;
- How the policies, procedures, and practices of the prison system can result in such patterns; and
- The consequences for prisoners and staff of such patterns.

Our research strategies included:

- Analysis of Ministry and institutional policies, practices, and procedures governing the placement of adult male and female prisoners;
- Individual interviews with Ministry policy makers;
- Collective interviews with Ministry employees responsible for making placement decisions;
- Collective interviews with COs;
- Collective interviews with prisoners; and
- Observation of the distribution of prison populations in facilities that we visited.

### Statistical Data

Our original research plan for this study depended on our obtaining up-to-date statistical information from the Ministry of the Solicitor General and Correctional Services (MSGCS). Ministry staff had initially



## *Racism Behind Bars: Segregation in Ontario Prisons*

informed us that full computer records of all prisoners in its facilities are kept and that these records include a variable from which we could determine “race”.<sup>\*</sup> We therefore designed a research project that would use statistical data to establish profiles of the populations at selected prisons and would rely on qualitative data, gathered from interviews and observation, to assist in interpreting and analyzing any patterns that emerged.

Between January and May 1993, the Commission made several attempts to acquire meaningful statistical information on prison profiles and the housing, work, and program assignments of prisoners. Unfortunately, despite considerable investment of time and staff resources, we were unable to obtain the data that we needed for a complete investigation of racial segregation. This failure of the Ministry to supply crucial information left us in a difficult position with respect to the segregation study.

There is considerable diversity in the practices of various institutions in the collection and maintenance of statistics based on race. A threshold problem is the “identification” of the racial background of each prisoner. Some prisons depend entirely on the assessment made by the admissions officer. Other prisons depend more on the “self-identification” made by each prisoner. It is generally accepted that self-identification provides more accurate results in most situations.

Virtually every part of the criminal justice system maintains basic statistics on its activities. Some of these contain detailed breakdowns, including gender and age. However, statistics are not formally or uniformly maintained in relation to race. There are strong concerns that race statistics can be manipulated to reinforce false and damaging perceptions. This possibility must be balanced against a major benefit of these statistics: their role in pinpointing discrimination in the criminal justice system.

We will address the issue of the collection and use of race statistics in the criminal justice system in our final report. There are many ramifications which must be analyzed and various considerations may

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<sup>\*</sup> In contrast, Ministry of Community and Social Services officials who deal with young offenders aged 12 to 15 (“Phase 1 offenders”) consistently told us that they do not include “race” in their statistics. We have found nothing that would contradict this statement.

## Placement Policies and Procedures in Ontario Prisons

## Classification of Prisoners on Remand

vary in relation to different categories. Nevertheless, statistics in relation to the identification of prisoners by race are important in understanding the nature and extent of the problems identified in this report and should be improved.

After much deliberation, the Commission has decided to report on what we found through our other research strategies. While the Commission has a great deal of confidence in the data that we have gathered, we recognize that we are unable to make conclusive findings about some aspects of placement policy and practice in prisons. We intend to continue our efforts to obtain statistical data from the Ministry and, if possible, to return to the issue of segregation in our final report.<sup>22</sup>

Placement or “classification” is the process that determines where prisoners spend the time during which they are incarcerated. Some parts of the classification process are governed by general Ministry policies. Other aspects are handled by procedures developed at the institutional level. Still others are a matter for the discretion of prison staff. The number of steps in the placement process varies with the age and sex of a prisoner and also depends on whether the prisoner is being held in custody before trial - *on remand* - or has already been sentenced to a period of incarceration.

### Placement among Prisons

Adults and youth aged 16 or 17 who are arrested and held in custody by the police must be taken before a court within twenty-four hours of the arrest.<sup>23</sup> If the court does not order immediate release, these prisoners are usually transferred to a jail or detention centre to await a bail hearing or trial.

There are 36 jails and detention centres in this province for adult men. Technically, prisoners on remand are under the control of the court where they will stand trial. Thus initial placement for adult male remand prisoners is normally determined by the place where the alleged offence(s) occurred. As many prisoners are charged with offences in their local communities, this means that, *subject to available bed space*, adult male prisoners awaiting bail or trial can expect to be kept in a prison that is reasonably close to their families, friends, and lawyers.

## *Racism Behind Bars: Segregation in Ontario Prisons*

If, however, a local prison is overcrowded, prisoners from the area will be transferred to another institution. These transfers are normally based on agreements and policies developed by the superintendents of the overcrowded prison and the receiving prison.

The situation for women prisoners is different. Ontario has very few prisons intended to hold adult women before their trials. Women arrested and detained in Metro Toronto and Peel Region are sent to the female prison at the Metro Toronto West Detention Centre. In other parts of the province, women prisoners awaiting trial are housed in a separate area of a men's prison.

The law requires 16- and 17-year-old youth charged with criminal offences to be kept apart from adult prisoners. The Metro Toronto West Detention Centre is the only provincial detention centre dedicated to housing youth in this age group who are being held on remand. In other parts of the province, such youth are housed in separate areas of closed custody prisons for young offenders who have already been sentenced.

Youth aged 12 to 15 who are detained while awaiting trial must also be kept apart from adult prisoners. Detention centres for such youth are under the jurisdiction of the Ministry of Community and Social Services (MCSS). (In practice, the lines of responsibility for youth in prison can be blurred since the two Ministries - MSGCS and MCSS - sometimes share institutions.)

### **Placement within Prisons**

There is little in the way of rehabilitative programming available to prisoners on remand. Therefore placement decisions for these prisoners are primarily a matter of deciding where they will be housed during their time in the institution. These decisions are made by correctional officers and reviewed by the superintendent or a staff member designated by the superintendent.

Upon arrival at an institution, prisoners go through a two-stage process. Prisoners are first interviewed by staff in the Admissions and Discharge Unit. The purpose of this interview is to obtain information for the assignment of prisoners to the area or section of the prison where they will be kept.

## *Racism Behind Bars: Segregation in Ontario Prisons*

Jails and detention centres usually contain at least three sections - general population, health care, and protective custody - each of which may be divided into more specialized sub-sections. For example, although all jails and detention centres in the province are maximum security facilities, their "general population" sections are frequently split for internal purposes into different security levels. Similarly, "protective custody" areas may be divided into distinct units in which prisoners are placed according to the reasons why they need protection.<sup>24</sup>

Once the admissions process is completed, prisoners are taken to the section or sub-section to which they have been assigned. COs in that area then make a decision about the bed that the prisoner will occupy. According to staff this decision is based on the availability of beds, with some attention being given to COs' assessments of the "compatibility" of prisoners.

Ministry policies governing placement of adults in Ontario's jails and detention centres are embodied in the Initial Placement Report (IPR). Admissions officers are required to complete this form every time a prisoner is admitted. There are also specific policies for those prisoners who request or are thought to need protective custody. These policies are contained in a separate form to be completed at the time of admission. The policies are implicit and vague but they are the only provincial guidelines for the use by admissions officers in exercising discretion. At least one institution, the Hamilton-Wentworth Detention Centre, has created detailed placement guidelines and procedures to supplement the Ministry's policies. In other institutions, the IPR seems to be the only formal control on the decisions of admissions officers.

According to the Ministry, the IPR is "designed to promote informed decision-making with respect to the inmate's initial placement in the institution."<sup>25</sup> Completion of the form is intended to encourage:

- Assessment of "a broad range of risk factors which might seriously affect the inmate's incarceration"; and
- "Early identification of behavioural and/or management concerns ... [in order to] permit timely investigation and intervention by ... institution personnel."<sup>26</sup>

The IPR clearly reflects an overriding concern with security and risk. The form consists largely of "yes/no" boxes to be checked by admitting



## Classification of Sentenced Prisoners

officers and is mostly devoted to their assessments of seven categories of risk factors: suicide risk, physical health, mental health, substance abuse, management risk, protective custody, and security risk. Within each of these categories, there are specific questions that require a “yes/no” response and spaces for comments. The form also includes spaces for the perceptions of police officers and admission staff’s comments based on prior knowledge of the prisoner. Finally, admissions officers are expected to record prisoners’ reports of specific medical conditions that might need attention and their requests to contact someone outside the prison or to receive French language services.

### Placement among Prisons

The first placement question for all adult prisoners sentenced to a period of incarceration is whether they will serve their time in the federal or provincial system. This issue is determined by the length of sentence. Adult prison terms that total two years or more are served in penitentiaries, for which the federal government alone is responsible. There are nine federal penitentiaries for adult men in Ontario and one that holds adult women. The Ontario Ministry of the Solicitor General and Correctional Services has no role in the management of these institutions.

The Ontario government is responsible for incarceration of adult prisoners with sentences of less than two years and for all young offenders who are convicted and given custodial sentences (*dispositions*). Upon receiving their sentences, prisoners are normally taken to the local jail or detention centre to await placement in a correctional centre or treatment facility. There are 18 correctional centres and treatment facilities for adult men in the province. These institutions are classified as minimum, medium, or maximum security prisons or some combination of the three security levels. Correctional centres and treatment facilities provide a range of educational, work, and treatment programs. Some institutions specialize in particular types of rehabilitative programming while others offer a mixture of such services.

The Vanier Correctional Centre for Women, a medium security prison in Brampton, is the only provincial correctional centre for female prisoners. Despite its medium security designation, in practice the adult

### *Racism Behind Bars: Segregation in Ontario Prisons*

prison is divided into four “cottages”<sup>27</sup> which have different security levels. A fifth cottage on the same site houses female young offenders. This unit is completely separate from the adult prison and the young women have their own programs and services.

Some adult female prisoners who have special needs or who are considered to be security risks may serve their sentences in local jails or detention centres. Female prisoners who need treatment programs beyond those available at Vanier may be classified to a special treatment facility such as the Northern Treatment Centre in Sault Ste. Marie or to a provincial mental health facility. Because of the limited number of options for the placement of women in the correctional system, there are fewer classification decisions to be made for them.

When the disposition of a 16 or 17 year old offender includes custody, the sentencing court must decide whether the time will be served in open custody or secure custody.<sup>28</sup> Open custody is meant to allow prisoners to leave the facility daily to attend school, keep a job, or participate in outdoor activities. Secure custody means confinement in separate youth institutions and close supervision. Youth aged 12 to 15 who are found guilty of an offence and sentenced to open or secure custody are held in institutions operated by MCSS or facilities that it shares with MSGCS.

The initial placement decisions for adults and young men sentenced to imprisonment can be quite complex as there are several possibilities available for these prisoners. The MSGCS has developed formal classification policies and procedures for placing sentenced prisoners in correctional institutions and treatment facilities. Superintendents of the local jails and detention centres are responsible for ensuring that the classification procedures are followed for all sentenced prisoners in their facilities.<sup>29</sup> They also have final authority over decisions to place sentenced prisoners in non-specialized correctional centres.

In practice, superintendents delegate most of the work involved in making a placement decision to classification officers in their institutions. Ministry policy requires classification officers to interview all prisoners serving sentences of more than 30 days and to make recommendations about their placement. Classification officers’ recommendations consist of three parts. First, the officer assesses the prisoner’s suitability for placement in rehabilitative programs. The

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officer may decide that the prisoner should remain in a jail or detention centre to work on kitchen duty or in stores or general maintenance. Alternatively, the officer may provisionally assign the prisoner to treatment, work, or educational programs in a correctional centre or treatment facility. (The final decision about allocation of prisoners to programs in correctional centres or treatment facilities is taken by staff in those institutions.) Second, the classification officer decides on the security level (maximum, medium, or minimum) at which prisoners ought to begin their sentences. In theory, prisoners with long sentences will be moved from more restrictive to less restrictive security classifications during their terms. Finally, the officer makes a recommendation to the specific prison where the prisoner ought to be sent.

All recommendations are reviewed by the superintendent of the jail or detention centre. Those which involve placement of a prisoner in a specialized treatment facility are sent, for approval, to the Offender Classification and Transfer Unit of MSGCS.

Ministry policy states that the classification system should:

- Place prisoners in the correctional setting that will best meet their program and custody needs;
- Give prisoners opportunities for successful personal and social adjustment in the prison community; and
- Ensure that the prison facility is secure and safe.<sup>30</sup>

In making a placement recommendation, classification staff complete a Classification Record form for each prisoner. According to the Ministry, the purpose of the Classification Record is to promote “effective classification decision-making.”<sup>31</sup> The two most important aspects of this goal are:

- “Determination of security and programming requirements”; and
- Identification of “negative aspects of an inmate’s lifestyle and behaviour which may be most amenable to positive change.”<sup>32</sup>

The Classification Record is designed to obtain information about the social and behavioural characteristics of individual prisoners as well as their criminal and correctional histories. Classification officers are encouraged to use a wide range of sources when completing this form,

## *Racism Behind Bars: Segregation in Ontario Prisons*

including: a personal interview with the prisoner, police reports, Crown briefs, employer and family character references, reports from prisons, length of sentence, and judicial recommendations for placement and reasons for sentence, if available.<sup>33</sup>

Drawing on these sources, the classification officer records information about the prisoner's home life, offence, prior criminal history (including security level and conduct), work history, and the prisoner's knowledge of and motivation to participate in programs at correctional centres or treatment facilities. MSGCS policies also state that classification officers ought to take note of factors such as sexually inappropriate or aggressive behaviour, notoriety, immigration status, and "institution/system stability."

After gathering the relevant information, the classification officer has three tasks. First, the officer must provide a comprehensive summary and evaluation of everything that has been learned about the prisoner. Second, the officer should recommend at least one prison placement. Third, the classification officer is expected to state, on every prisoner's classification record, the reasons for the placement recommendation.

Even a brief glance at the classification record reveals that classification officers must collect and process a significant amount of information about each prisoner. Moreover, the forms and Ministry policy give no indication of how officers should evaluate this information. Thus the process requires classification staff to exercise considerable personal judgement, not only in deciding which factors are relevant but also in assigning relative weights to these factors. However, especially in those areas of the province where there is a high volume of work, classification officers have little time for processing prisoners. The Commission was told, for example, that in the Metropolitan Toronto area, classification officers process, on average, each case in 20 to 30 minutes.

### **Placement within Prisons**

Upon arrival at a correctional centre or treatment facility, prisoners are classified once again. This time the purpose of the placement process is to assign prisoners to rehabilitation programs and living units. In many institutions for sentenced prisoners, these two aspects of internal classification work together so that a decision about program



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### **Segregation in Ontario Prisons: What We Found**

involvement automatically results in prisoners being assigned to a particular area of the prison. The decision as to the specific bed the prisoner will occupy is then based, in theory at least, on availability. Other prisons separate the issue of placement in living units from program participation. In these cases, internal classification may involve two or more independent decisions.

Policies and guidelines for placement of sentenced offenders within correctional institutions and treatment facilities are primarily matters for local decision rather than direct MSGCS policy.<sup>34</sup> When we asked staff at individual institutions about such policies, the Commission found that there is a wide variation in practice. Superintendents of some prisons have created detailed formal internal classification criteria, others rely on brief guidelines, and a few do not provide any written policies.

Given the diversity in internal classification processes in correctional centres and treatment facilities, the Commission is unable to comment generally on the policies that affect the placement of sentenced prisoners within institutions. However, in our later section on rehabilitation programs we will outline procedures used at two prisons - Vanier Centre for Women and Maplehurst Correctional Centre - that play a significant role in the Ontario system.

In looking at the issue of racial segregation, the Commission was interested in all stages of the classification process from entry to a jail or detention centre to placement inside facilities for sentenced prisoners. To ensure that we used scarce resources most effectively, we decided to concentrate our efforts on prisons that serve areas with large black and other racial minority communities.

We designed our empirical research to answer three questions:

- To what extent do classification decisions result in concentrations of black and/or other racial minority prisoners in some prisons and their absence from others?
- To what extent do internal placement decisions result in concentrations of black and/or other racial minority prisoners in particular areas of prisons and their absence from others?
- To the extent that such concentrations exist, how are they explained?

### Placement among Jails and Detention Centres

Our observations and interviews revealed that the racial composition of jails and detention centres tends to reflect their local populations. Thus remand facilities in areas with large black and other racial minority communities are quite mixed whereas the prisoners in jails and detention centres in predominantly white areas are mostly white. These results were entirely predictable given the practical requirement that it is cheaper to keep prisoners held on remand as close as possible to the courts where they will be tried.

There is, however, one aspect of placement among jails and detention centres that is completely unacceptable: the disproportionate transfer of black remand prisoners from Toronto prisons to the Hamilton-Wentworth Detention Centre.\* At the time of our research, correctional officials acknowledged that over 80% of the transferred prisoners were from the black communities of Metro Toronto. As the proportion of black prisoners in the Toronto jails and detention centres is nowhere near 80%, this finding required further investigation.

No satisfactory explanation was provided. The specific practice of moving prisoners from Toronto to Hamilton developed in the mid-1980s as a way to reduce overcrowding in the Metro Toronto remand prisons. According to the policies developed by the superintendents of the Hamilton-Wentworth Detention Centre and the Toronto Jail, there are three main criteria for deciding which prisoners will be moved: the next court appearance of the prisoner is more than 30 days after the date of transfer; there is no lawyer's request for the prisoner to remain in the Toronto Jail; and the prisoner does not have any special medical needs or mental health problems.

Some administrators said that racial disparity among prisoners selected for transfer follows from decisions taken elsewhere in the criminal justice process. They suggested that black prisoners may be more likely to be refused bail than white prisoners, with the result that there are more black prisoners than white prisoners to select for transfer.

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\* Prisoners sent to the Hamilton-Wentworth Detention Centre may have been held previously in any of the three remand prisons for adult men in the Metro Toronto area. In practice, prisoners held in the Metro East Detention Centre or the Metro West Detention Centre are first transferred to the Toronto Jail before being sent to Hamilton.

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However, this explanation misses the point that there are more white men than black men held on remand in Metro Toronto prisons. The relevant question, then, is why are black prisoners more likely to meet the three selection criteria than white prisoners or prisoners from other racial minority communities? The administrators we spoke with insisted that the selection criteria are always used and that if there is a problem it is not the fault of prison officials. For example, in response to the question of whether black prisoners are the only ones sent to Hamilton, a senior prison administrator told the Commission:

No, it's the longest remands. It goes by remand date .... and only the straight-ups.... i.e., no psychiatric problems, no p.c.'s [protective custody], no medical problems. At times the Toronto unit [in Hamilton] looks like it has more blacks than whites. But the issue is not why are they in Hamilton. The issue is why are they getting longer remand times. If for some reason there is a greater number of blacks ... getting longer remand times, then that's what you need to look at.

The Commission recognizes that “remand date” or “date of the next court appearance” is an important factor in selecting prisoners for transfer. Every movement of prisoners into or out of a jail or detention centre demands resources for processing, search and escort duties, and secure transportation. These needs are increased when the prisoner must frequently appear in a court that is a long way from the remand prison.

However, prison administrators did not provide the Commission with any evidence that black prisoners in Toronto remand prisons in fact have longer remand dates than white prisoners. Indeed the administrators appeared not to have thought about the issue at all. They simply assumed that if an overwhelming majority of the prisoners transferred to Hamilton are black, then this must mean that courts are giving black prisoners longer remand dates (a problem that is not within the control of the MSGCS).

The transfer of remand prisoners away from the local prison isolates them from family, friends, and other sources of emotional and social support. Visitors are less frequent because of the financial costs and time involved.<sup>35</sup> It is also harder for prisoners from Toronto to maintain direct contact with their lawyers. It is clear that all of these

## *Racism Behind Bars: Segregation in Ontario Prisons*

disadvantages fall disproportionately on the black prison population which adds to their fear and anxiety about forthcoming trials.

Our research showed that many black prisoners transferred to Hamilton are so anxious to return to Toronto that they sometimes act against their long-term interests. For example, until quite recently, prisoners transferred to Hamilton knew that if they misbehaved they likely would be sent back to Toronto. Many prisoners, therefore, almost from the moment they arrived in Hamilton, would “act up” in the hope that they would be given a “misconduct.” Prisoners obviously saw misconducts as a solution to their immediate problems of isolation. However, these disciplinary actions may have serious consequences for those prisoners later convicted at trial and given prison terms.\*

The inability of the Ministry to supply the Commission with relevant statistical data means that we are unable to identify precisely the reasons for racial inequality in prisoners’ transfers. However, there are two likely explanations for the massive disproportion (which was acknowledged by prisoners, administrators, and advocates) between the number of black prisoners and other prisoners who are transferred.

*Either the selection policies themselves are flawed and lead to this result (inherent bias) or factors other than those set out in the policies are influencing the selection process (implementation bias).* If the problem lies in the policies, then the selection criteria must be changed. It may be that such a change would result in some administrative inconvenience, but that is a small price to pay for the elimination of a form of systemic racism where facially neutral policies have disparate results. If, on the other hand, the source of bias lies in the application of the selection criteria, then the policies must be monitored and enforced effectively. We have found no evidence of administrators’ attempts to determine the causes of the problem or to respond to it effectively. However, the Commission believes that whatever its cause, racial disparity in the transfer process must be stopped. It is unacceptable that this state of affairs has been allowed to develop and to continue.

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\* Misbehaviour is no longer a reason for returning prisoners to Toronto. Since this was a recent decision, however, we have not been able to assess the impact of this reported policy change.



## *Racism Behind Bars: Segregation in Ontario Prisons*

The Commission recognizes that the new Detention Centre at Maplehurst along with the Detention Centre under construction at Mimico may eliminate, or at least reduce, the need to transfer Toronto remand prisoners to the Hamilton-Wentworth Detention Centre.<sup>36</sup> Even if this is so, however, this experience of institutional planning without careful attention being paid to “race” provides a graphic illustration of how systemic racism can all too easily develop.

### **Placement in Correctional Centres and Treatment Facilities**

During the course of our prison visits, the Commission was struck by the high proportion of black and other racial minority prisoners classified to relatively high security institutions, such as the Maplehurst Correctional Centre and Guelph Correctional Centre. While it is perhaps possible that this pattern merely reflects the offences and criminal histories of prisoners in the system (as was suggested by senior Ministry officials), the Ministry was unable to supply the Commission with statistical data to confirm this explanation.

In the absence of relevant statistical information, we looked for explanations for this pattern of racial clustering in the operation of the classification system. To this end the Commission interviewed classification officers from various prisons across the province and staff from the Ministry’s Offender Classification and Transfer Unit. We also asked prisoners about their experiences.

#### “Security Needs”

Classification officers consistently agreed that among the factors listed in the Classification Record, the most significant placement decision is the prisoner’s previous history of criminal offences. Many officers identified prisoners’ “security needs” as almost as important and also said they take very seriously any recommendations for treatment contained in a pre-sentence report, if one is available.

In terms of factors not listed on the Classification Record, several staff commented that they normally ask prisoners about their preferences and, where possible, attempt to accommodate requests. Other classification officers disagreed strongly with this approach. They felt that classification officers, not prisoners, are in the best position to

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“identify appropriate placement options” and that the professional judgment of the staff should determine where prisoners serve their sentences. Officers who held this second view felt strongly that classification staff need more help from the MSGCS policy and research branches to ensure that placement decisions are based on up-to-date knowledge about prisoners and correctional programs.

Given our observations, it was obviously important to understand how classification officers make judgments about the “security needs” of sentenced prisoners. When asked about the meaning of “security level,” some staff identified two factors: prisoners’ behaviour while in the jail or detention centre and their placement within a remand prison. We were told that the disciplinary or “misconduct” records of prisoners are usually considered to be highly significant. To get a better sense of a prisoner’s behaviour, staff said that they normally review the paper record of his conduct while on remand and speak to COs responsible for the area in which the prisoner has been held.

### Initial Placement Decisions

The initial placement decision made by an admissions officer at a jail or detention centre, recorded on the IPR, was also identified as a very important factor. If admissions staff place the prisoner in a higher security area within the remand prison, then classification staff - who are evaluating the prisoner after conviction and sentence - are more likely to view him as a high security risk. Conversely, those prisoners whom admissions officers place in lower security living areas are seen as “good” or “easy” prisoners and are more likely to be classified to minimum security prisons if sentenced to imprisonment.

Many classification officers rely on more than formal rankings of living areas within jails and detention centres to make judgments about the “security needs” of prisoners. There are in Ontario’s prisons, as in many such closed institutions, informal norms and understandings that shape the reputations of different living areas. Units that have the same formal security ranking, for example, may be known, by reputation, to house “difficult” prisoners. Our interviews with classification officers revealed that staff know the institutional reputations of different parts of the prisons where they work and use this information when making placement decisions. Thus prisoners who had been placed in a unit with

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a “bad” reputation are assumed to need higher security placements than those who had been placed in “good” units with the same security rating.

### Unit Changes

Initial placement decisions are not the only aspect of internal remand placement that classification staff felt are significant to judging the “security needs” of sentenced prisoners. Some officers also see unit changes while on remand as a signal that a prisoner should be placed in a higher security prison to serve sentence. They believe that prisoners who are moved frequently among different living areas are usually “troublemakers” in need of a high degree of control.

These unit changes are viewed by some COs and prisoners as a questionable indicator of prisoners’ “security needs.” The Commission was told on numerous occasions that COs change the unit assignments of black prisoners for strategic reasons that have little to do with the conduct of the prisoner who is moved. It was reported, for example, that in some prisons, COs move a sole black prisoner into a living area that is known to hold aggressive white prisoners in order to intimidate the black prisoner. This move is almost always temporary whether or not it results in open conflict. If a fight does break out, the black prisoner is again moved, either for protection or because he is seen as a troublemaker. If the unit remains peaceful, the black prisoner is once more transferred to an area where he might be victimized. After describing this practice, one white CO told us that “it’s common for white officers to use this [practice] as a form of discipline.”

Not all COs use unit changes quite so maliciously. In many instances, such relocation is simply a convenient way of managing conflict within the prison population. Even in these situations, however, white and black prisoners as well as COs agreed that: “If there is a problem on the range, someone has to go and it’s usually a black guy.”

The Commission does not doubt that there are legitimate reasons for moving prisoners among living areas. However, these practices become a matter of concern when they adversely affect subsequent placement decisions. It is troubling that so many classification staff seem to accept - without question - that prisoners who experience several unit changes

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ought to be placed in higher security prisons in comparison to those who have remained in the same area throughout their time on remand.

### Interpretations of Prison Practices

Not all classification staff agreed that misconducts, unit changes, or initial placement in a remand prison are good indicators of sentenced prisoners' "security needs." They emphasized that it is hard to interpret these factors accurately and in a way that is fair to individual prisoners. Such indicators, we were told, often reveal more about prison practices than about prisoners' behaviour. Some officers said, for example, that while prisoners in "difficult" units are much more likely to have "misconducts" on their institutional record, this does not necessarily mean that their conduct is any worse than prisoners without misconducts who had been housed in other areas. Their point was that COs react differently to the same behaviour by different prisoners depending on the reputation of a living unit.

Officers who do not use initial placement in the remand prison as an indicator of prisoners' "security needs" made two important points. First, they suggest that such placements are strongly shaped by admissions officers' perceptions of risk. Given the volume of work in admissions units and the pressure of limited bed space, it is unfair, they said, to expect admissions staff to assess each prisoner carefully. Second, these COs believe that using initial placement in a "difficult" living area as a factor in post-sentence placement results in prisoners not being treated as individuals but instead being stigmatized by the reputation of the area where they had been kept.

In questioning the importance that their colleagues attach to unit changes, classification staff told us that many COs resolve conflicts among prisoners by moving people around although those who are moved are not necessarily the most aggressive or difficult prisoners. Indeed, in many cases it is the prisoner who is "picked on" or targeted by others who is reassigned to a different living area. It is thus somewhat ironic that the unit changes on such prisoners' records are then viewed as evidence they are more of a security risk than their tormentors.

As these findings show, there is great variation among classification officers in the weight that they attach to the earlier decisions of staff in



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jails and detention centres. While many officers feel that staff judgments about disciplinary charges, unit allocations, and unit changes are very important to their own evaluations of prisoners' "security needs," others believe it is dangerous to rely too heavily on these factors. Among the concerns of these officers is the potential for judgments about remand prisoners to be influenced by racial stereotypes of the kind described in our discussion of prison environments.

It was clear from our interviews with COs and prisoners that classification staff's concerns are well-founded. For example, one CO, commenting on classification officers' reliance on the views of line staff, said:

The attitude of a lot of [COs] is that any staff outside of correctional staff, that includes ... classification officers, are a hindrance. They're just here to bother us, make our jobs harder to do. If a classification officer asks a [CO] "how's this inmate behaving?" the answer you get depends on the kind of day the [CO] is having. The classification officer needs to look elsewhere, do some other research.

### Prison Discipline

The Commission consistently heard from black and white prisoners as well as from staff that prison discipline is not enforced equally against black prisoners and white prisoners. We were told that black prisoners are given misconducts for "insubordination" while the same behaviour by a white prisoner is tolerated. We also heard that many COs respond quite differently to black and white prisoners who are caught fighting. While white prisoners are merely separated and warned, black prisoners are automatically seen as the source of trouble and charged with misconducts. Many prisoners and COs also alleged that some COs deliberately taunt black and other racial minority prisoners. As soon as the prisoner reacts to the provocation, the CO writes up a misconduct report.

The Commission was unable to complete an extensive study of misconducts within the resources allocated to this interim report and it was therefore decided to postpone full analysis of prison discipline until our final report. However, in terms of the specific issue under

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consideration - the role of misconduct records in classification officers' placement recommendations - we believe that there is cause for concern. We were impressed with the quality and consistency of the evidence that we received. We believe that it does suggest that in some prisons there are clear patterns of differential treatment in the enforcement of prison discipline. Thus classification officers who rely on misconduct records to determine the "security needs" of sentenced prisoners are more likely to view black prisoners as requiring higher levels of security than white prisoners.

### Prisoners' Preferences

The significance of prisoners' preferences to the patterns we observed is unclear. On the one hand, as noted above, several classification officers told us that they attempt to take prisoners' choices into account when making recommendations. It is also clear that prisons develop reputations known to prisoners and that information, rumours, and hearsay are readily communicated among those in conflict with the law. Thus it is plausible to believe that black and other racial minority prisoners would, if given a choice, ask to be placed in prisons that do not have reputations for racist treatment. Assuming that classification officers respect these requests, prisons that do not have bad reputations could, over time, come to house a disproportionate number of black and other racial minority prisoners.

On the other hand, it was clear that many classification staff do not believe that placement should be influenced by prisoners' preferences. Moreover, we found very few black prisoners who said that they had been offered placement choices during their classification interviews. Indeed, most expressed surprise at the idea that prisoners would be consulted. These experiences suggest that patterns of racial clustering among prisons for sentenced offenders cannot be explained solely by prisoners' preferences.

### Professional Development for Classification Officers

Many classification officers were quite aware of limitations in their training and shortcomings in the process they are expected to administer. Several officers talked about inconsistencies in the classification practices in different prisons. They blame this problem on

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wide variations in the qualifications of classification officers, the absence of any province-wide standards for classification staff, and the failure of the Ministry to provide adequate formal training. The result, we were told, is that classification staff are given considerable discretion but receive little practical guidance about how to exercise that discretion in a responsible and professional manner.

Many staff members talked specifically about their need for effective, job-related anti-racist training. These officers clearly recognized that they are struggling to cope with Ontario's changing demographics. They are able to identify cultural gaps between classification officers and black and other racial minority prisoners and realize that their inability to interpret motivation and behaviour accurately could have a negative impact on the placements of these prisoners. It was clear that many staff members want to do their jobs well but feel that because the Ministry does not see the classification process as important, there is a lack of investment in professional development. The result, according to one classification officer, is that "systemic discrimination goes with the prison territory."

### Workload

Classification staff also told us that their workloads make it difficult for them to do their jobs properly. Many officers said that they are unable to visit the correctional centres to which they recommend classification of sentenced prisoners. Thus when making placement recommendations, staff have little direct knowledge of the available alternatives but must rely, instead, on MSGCS documentation and hearsay.

Perhaps the most pressing concern of classification staff, particularly in the Metropolitan Toronto area, is the lack of time available for individual interviews with prisoners. Officers were aware that because of the volume of work, they could only afford to give each prisoner a 20 or 30 minute interview and that this period of time is wholly inadequate for determining the programming, treatment, and "security needs" of interviewees. Given these time pressures, it is hardly surprising that some classification staff rely too heavily on the records of remand prisons rather than attempting to evaluate each prisoner as an individual. The combined effect of the inadequate decision-making

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structure, informal practices, and lack of safeguards is a classification process that results in and perpetuates systemic racism.

### **Placement in the Ontario Correctional Institute**

Our research into the placement of sentenced prisoners in institutions not only revealed that black and other racial minority prisoners are over-represented in the “worst” prisons but also showed that these prisoners are virtually absent from the “best” adult male prison in the province - the Ontario Correctional Institute (OCI). OCI is considered by the Ministry to be the flagship prison of the Ontario system and is known internationally for its rehabilitation and treatment programs.

According to the Ministry, OCI provides a multi-disciplinary setting for offenders who are “motivated to achieve a more responsible lifestyle.”<sup>37</sup> Prisoners have access to a wide range of professional services within a supportive custodial environment. In addition to the core program of services available to all residents, each prisoner receives an individualized treatment program with a focus on providing the necessary support to make changes in behaviour. Residents have access to case managers, social workers, and psychologists. Other available programs and activities include: peer review of behaviour, case conferences with staff to develop plans, participation in the therapeutic environment of the living unit, health care, education, recreational activities, vocational life skills, and chaplaincy services.

OCI is located in the greater Toronto area in which there are a substantial number of black and other racial minority communities. The Commission, therefore, anticipated that the racial mix of OCI’s population would resemble that of the wider community. Unlike other prisons in the area, however, OCI has almost no prisoners from these communities.

When asked about this issue, some administrators and classification officers emphasized that OCI is not a regional prison but takes prisoners from across the province. Viewed in this context, they believe that the proportions of prisoners from black and other racial minority communities “aren’t so bad.” Others recognized that there is indeed a problem. They identified three main factors that affect placement recommendations: prisoner “choice,” prisoner “motivation,” and “need for treatment.”



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### Prisoner Choice

Despite the superior facilities of this prison, black prisoners, we were told, do not want to serve their sentences in OCI. Our interviewees blamed this resistance on rumours, gossip, and misinformation among prisoners about the role of OCI in the prison system. The prison has a reputation as a treatment centre only for sex offenders. There is some basis for this perception. Although OCI offers a wide range of therapeutic treatments, the information we received is that 48% of its prisoners, by far the largest single group, are registered in treatment programs for sex offenders. However, the same statistic means that more than 50% of the prisoners at OCI are not incarcerated for sex offences. The prison also offers a wide range of treatment programs designed for people with problems of drug and alcohol abuse and aggressive behaviour.

According to the staff we interviewed, black male prisoners convicted of other offences are more concerned than white prisoners about avoiding the sex offender label. It is hardly surprising that they strongly resist any association with sex offences. There is a deep and abiding stereotype in North American culture that black males are sexually aggressive and predatory, and as our research into prison environments showed, this stereotype is very much part of the prison culture. Therefore, in part because of the reputation that OCI has acquired as a facility for sex offenders, its excellent programs are, in effect, not available to many prisoners from black and other racial minority communities.

### Prisoner "Motivation"

Prisoner "motivation," as assessed by classification staff, is also a significant factor for placement at OCI. When we asked classification officers how they assess "motivation," they told us that the most important factors are impressions gained through the personal interview with the prisoner and the recommendation, if any, of the sentencing judge. Some officers recognized the difficulties of judging "motivation" and admitted that their judgments could "indicate bias." They made the point that people from different cultures rely on distinct "signals" in terms of body language, vocal intonation, and vocabulary to express characteristics such as "motivation." Classification officers

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are concerned that their relatively limited experience and training means that they find it difficult to pick up and read accurately the “signals” of prisoners who are not white Canadians.

### Need for Treatment

Similar biases may also shape classification officers’ judgments about the treatment needs of prisoners, particularly those convicted of drug offences. Our research showed that many people within the prison system informally divide such offenders into two categories. One group consists of offenders who are viewed as victims of their suppliers and their addictions. These prisoners, many of whom are users of “hard drugs,” are seen as needing help and potentially able to benefit from substance abuse programs in prisons. The second category is made up of offenders who are thought to exploit the vulnerabilities of others. These prisoners, most of whom are convicted of trafficking or importing, are considered to be predatory and ruthless. They are not believed to have treatment needs and their prison sentences are viewed as “pure” punishment.

During our discussion of placement at OCI, staff talked about the racial biases that affect officials’ perceptions of prisoners convicted of drug offences. Some officers said it is quite clear that black and white prisoners are viewed differently, although staff are unsure whether the differences are due to overt or covert racism. One officer commented that he has often noticed that a white person convicted of drug trafficking is viewed as in need of treatment and seriously considered for placement in OCI or another treatment facility. In contrast, a black person convicted of the same offence and in similar circumstances is seen as a predator and the possibility of placement in OCI is not even be raised.

### Judicial Recommendation

There are three additional factors that Ministry officials and staff said are significant to placement in OCI: judicial recommendation, sentence length, and the interventions of defence lawyers. It appears that reliance on judicial recommendations may contribute to the *perception* that OCI only treats sex offenders and thus results in the exclusion of other prisoners. We understand that many judges believe this to be the case

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and so do not recommend placement in OCI for men with treatment needs who have been convicted of other offences. The Commission is continuing to investigate judicial perceptions and will report further on this issue in our final report.

### Sentence Length

Prisoners who serve their time at OCI are expected to participate in and *complete* structured courses of treatment that cover a range of “anti-social” behaviours. Although the specific package of courses followed by each prisoner is tailored to his perceived needs, each program within the package has a standard format and takes an average five to six months to complete. As prisoners who serve sentences shorter than six months have no chance of finishing programs at OCI, they are not usually eligible for admission to the prison.

The Commission was told on several occasions about the importance of sentence length in placement decisions for OCI. However, at this time we have no evidence that black prisoners receive shorter sentences than white prisoners. We therefore have no reason to believe that sentence length is a systemic barrier to the placement of black prisoners in OCI.

### Intervention of Defence Lawyers

Of more concern to the Commission than sentence length is the claim that placement in OCI can be significantly affected by the interventions of defence lawyers. Some, but by no means all, defence lawyers actively involve themselves in the placement process for their sentenced clients. They may try to prepare clients for the placement interviews, make written submissions, talk to classification officers, and call the Offender Classification and Transfer Unit. Although the Commission does not see anything wrong with lawyers continuing their advocacy role beyond sentencing, we are troubled by the inconsistency in this practice. The Commission was told that lawyers for middle-class offenders routinely lobby for favourable placements for their clients, including placements at OCI. By contrast, partly because of the virtual absence of legal aid funding for such lobbying, such interventions on behalf of black prisoners or white working class prisoners almost never occur.<sup>38</sup>

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### Solutions

The Commission is disturbed by the virtual exclusion of black and other racial minority prisoners from the provincial prison with the strongest mandate for rehabilitative programming. While no single factor explains this exclusion, it is clear that taken together, prisoners' choices, the specific programming options available at OCI, classification officers' perceptions of need and "motivation," and (the lack of) lawyers' interventions operate as a systemic barrier for black prisoners.

The solution to this problem is complex and multi-faceted. The Commission respects the concerns of black prisoners who may want to avoid the stigma of placement in a prison known for its treatment of sex offenders. Moreover, there is no value in black prisoners participating in treatment programs that are not appropriate to their needs. Some people maintain that the only long-term solution is for the province to upgrade every prison for sentenced offenders so that all prisoners can benefit from programs of the quality available at OCI. However, this strategy may have the negative effect of diverting resources from more effective community-based treatment programs. In any event, we recognize the need for a more immediate response.

### **Placement within Prisons**

#### Initial Placement Report

In an earlier section of this chapter we discussed the admissions process for placement within jails and detention centres. Our brief description of MSGCS policy did not reveal any obvious reason why the admissions process should result in racial segregation of prisoners. Admissions officers are not directed to take account of "race," "ancestry," or "ethnic origin" and the "risk assessment" factors contained in the Initial Placement Report (IPR) appear to be "race-neutral." Nevertheless, two aspects of the process give cause for concern.

First, there are difficulties with some of the criteria for assessing risk. Although some of the questions in the "risk assessment" sections of the IPR demand purely factual responses, other questions and the "comments" sections require the exercise of judgment in interpreting behaviours. Yet there is nothing in the IPR form or the admitting



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procedures to safeguard against judgments based on racial stereotypes. For example, one of the “yes/no” questions in the section on “management risk” asks for the admitting officers’ impression of whether the prisoner displayed “disruptive/combative behaviour during arrest/admission.” This type of judgment is highly subjective. It is particularly difficult to make such judgments accurately when those under assessment are, by definition, being held against their will. In addition, given the volume of work facing admissions staff in large jails and detention centres, there simply is not enough time for them to make considered assessments. In such a context, there is a clear danger that staff perceptions of whether or not a prisoner displays “disruptive” or “combative” behaviour will be shaped by racial stereotypes such as those discussed in Chapter 2.

That racist assumptions and stereotypes about racial minority communities may shape judgments about prisoners “security needs” is vividly illustrated by the internal placement procedures of the Hamilton-Wentworth Detention Centre. These procedures are intended to assist admitting officers in assessing risk factors. They explain the purpose of the categories in the IPR and tell officers what factors they ought to take into account when filling in the form. The section on the meaning of “security risk” tells admissions officers to look out for “terrorist associations” and gives as examples of such a risk factor “IRA, Soldier of Fortune, Colombian Drug Cartel, Tamil, etc.”<sup>39</sup> This provision has the racist effect of associating distinct racial/cultural communities of Ontario - **Colombians** and **Tamils** - with terrorist activity. It also implies that Tamil and Colombian prisoners, simply by virtue of their ancestry, ought to be given a higher security rating than prisoners from other communities.

The second cause for concern is the serious gaps in placement policy as represented by the IPR. Completion of this form only allows very crude judgments about the security and health needs of different prisoners. Yet admissions officers in most institutions assign prisoners to specific sections within the prison. As most jails and detention centres do not have detailed policies for internal placements, officers have considerable discretion in deciding on the placements of individual prisoners among sections with the same security rating. It appears there are informal norms and understandings in most prisons that guide decisions about where different types of prisoners should be placed,

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with strong indications that “race” or “ethnic origin” feature prominently in these informal rules.

### Segregated Living Areas

It was clear from the Commission’s visits to prisons that, in some institutions, black and white prisoners occupy distinct living areas. Prisoners from other racial minority communities are sometimes placed with black prisoners and sometimes with white prisoners but the separation between black and white is striking. In other prisons, there is a more subtle but equally troubling pattern: “Jamaican black” prisoners, or *those perceived to be* “Jamaican blacks,” are segregated into distinct living areas.

During our visits we observed that among the prisons for adult men, racial segregation was particularly apparent at the Toronto Jail where some living areas contain only black and other racial minority prisoners and other ranges are exclusively white. There was some evidence of similar patterns at the Metro East Detention Centre and the Ottawa-Carleton Detention Centre. At the Hamilton-Wentworth Detention Centre, the two maximum security areas allocated to prisoners transferred from Toronto are principally comprised of black prisoners. The rest of the prison holds mostly white prisoners. Racial divisions were also evident at Maplehurst Correctional Centre, where most of the prisoners enrolled in the educational programs are white and the overwhelming majority of prisoners on the work side of the prison are from black and other racial minority communities.

In both of the women’s prisons that we visited - Metro Toronto West Detention Centre and Vanier Centre for Women - there was some racial grouping. We noticed in particular that at Vanier there is a much higher proportion of black women in the cottage that does not offer any therapeutic treatment and holds women with higher security ratings than the other living units.

Patterns of racial segregation also emerged at the male youth prison in the Metro Toronto West Detention Centre. For example, the work unit contained a relatively high proportion of Asian youth. According to the prisoners, staff justify this grouping by saying: “Orientals work well in the kitchen” or “The Oriental loves to work hard.” Black youth in this prison reported that one unit contains almost exclusively black

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prisoners and is viewed by COs as extremely troublesome. They also said that some of the patterns of racial grouping are subtle. For example, we were told that: "When black youth are admitted they are usually placed with other black guys ... but if they are 'wimpy-looking' or Canadian-born they are placed with the white guys."

A staff member at another youth prison gave the following example of practices in the institution where he works.

A black youth was admitted here just recently and they wrote on his intake form, "Put him in the multicultural unit." That unit happens to have the largest concentration of visible minorities and was once known as the "black cottage." That is the type of racism that goes on here.

The Commission asked prison superintendents and other senior officials to comment on our observations.

Most officials flatly denied the possibility that prisoners in their institutions are segregated on the basis of race. We were told that there is no racial segregation in Ontario's prisons because "there is no policy in the Ministry which directs us to group inmates on the basis of race." Another official said that "it is an overriding part of the correctional philosophy that all inmates are to be treated the same, without reference to race." One superintendent insisted that "we would not tolerate these kinds of situations that you have described .... We would do something about this if it was going on." According to another superintendent, effective racial integration in the Ontario prison system has been confirmed by officials of the federal penitentiary system:

We have had visits from the Correctional Services of Canada to our institution, to see how we integrate so effectively and how we are able to keep people safe on the basis of race. So ... we are seen as experts in keeping the jails free of segregation.

Federal officials do visit provincial institutions for a variety of reasons. However, these officials do not support the view that Ontario prisons are paragons of integration. Indeed they have reported to the Commission that they are forced to spend much time and energy explaining to newly arrived prisoners from Ontario prisons that racial segregation is not permitted in federal penitentiaries despite the prisoners' experiences in the provincial system.

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A few senior officials felt that our questions were unfair. We were told that:

[The problem] exists in the culture .... What you've done is taken one group, the blacks, and said, look at them, they're together .... Quite often it's the inmates themselves who have some say in the choice. They may choose because there's some glamour in being with your friends .... ... we are trying to keep everybody happy, to give them their choices, if that's possible.

Another official said that:

I think you need to accept that the staff in the institutions are acting on good impulses. If they put two black people together, or two Asian people together, because they might enjoy each others' company, that's not a bad thing.

Some superintendents and senior managers acknowledged that there "might appear to be segregation in some institutions in Toronto" but immediately explained that placement decisions are based on security concerns and numbers rather than "race." The Commission was told, for example, that: "[We] are concerned about managing a population, which includes keeping them [prisoners] safe from each other" and "[We] have a huge number of admissions each day, so we have to resort to any measure to keep things calm." Another senior official said:

... it's dangerous to make assumptions that this is being done for racist reasons. It may be being done for reasons of safety, for the safety of the inmates as well as the safety of the COs. And it may be racist *not* to allow them to congregate on the basis of race.

Safety and security concerns were also given as explanations for segregation at the Hamilton-Wentworth Detention Centre. Officials insisted that the basis for segregation in this prison is geography rather than race, explaining that there is a long history of hostility between local prisoners and those transferred from Toronto. Physical separation of prisoners from different cities within the facility is seen as an effective way of avoiding conflict. That this separation results in racial segregation of prisoners, we were told, follows from the fact that while the overwhelming majority of remand prisoners in Hamilton are white, most of the prisoners selected for transfer from the Toronto Jail "happen to be" black.



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COs were much more forthcoming about segregation behind bars. Some said that although racial segregation does not exist in their prisons, they could name others where the practice is well-known. Others freely admitted that the prisons where they work routinely divide prisoners along racial lines. The following comments were typical of the explanations that COs gave:

- When prisoners of the same race are put together, they are “happier and easy to manage.”
- “Black and white prisoners just do not get along.”
- “Prisoners prefer to be with friends or with other prisoners from the same cultural background.”
- “Tensions are easier to manage and there are fewer fights when youths sleep in separate areas based on race.”

Some COs seemed to view these reasons as justifications for segregation. However this was not a universal view. Other COs told us that they are strongly opposed to racial segregation which results, they said, from management failure, “correctional officer culture,” prisoner preference, or a combination of these factors. For example, in response to a question about racial segregation, one CO said:

Are you asking “can inmates, black and white, exist together in an institution?” Sure they can. We are the ones who in institutions create the situations where people get along or don’t get along.

Another CO insisted that:

... you have to challenge those people whose racist attitudes get expressed in the institution. If your supervisor refers to black inmates as “those savages in 3-C,” you have to challenge your supervisor.

Some COs felt that management finds “... it’s easier administratively just to separate [prisoners] and not worry about keeping things even.” Others maintained that racial segregation:

... comes down to the guys on the floor. A lot of black guys, when they get to the institutions and they are asked, [say] they want to go to an all black range .... It’s not just us sending them to black ranges, they’re asking to go and we’re accommodating them.

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One white CO, while acknowledging the practice, urged us to understand why black prisoners might request placement in a racially segregated unit. He told us:

If I was a black offender and I came into a jail I would be looking for friends and protection. I don't think black offenders trust white officers to protect them or defend them.

While this officer opposes segregation, his point is that adequate protection is not always provided in integrated ranges.

Black and other racial minority prisoners gave widely varying responses to questions about racial segregation. Among adult prisoners there were no obvious patterns of response. Some men and women who had experienced racial segregation, whether forced or voluntary, felt that it had made their time in prison more bearable. Others with similar experiences thought that segregation had caused racial tension and conflict among prisoners. Of those prisoners who had never been housed in racially segregated units, some had no particular desire to be placed among prisoners of their own race or culture while others believed that they would feel safer in a racially segregated environment.

White, black, and other racial minority prisoners housed in young offender facilities were more likely than adults to view racial segregation as positive. Those who had experienced segregation by race often approved of separation, giving reasons such as: "Our relations are good with other black brothers - forget it with the white ones"; and "We don't get on with the white racist guys because they 'rat' on us." In contrast, some youth held in integrated units complained of isolation and fears for their safety. Many were critical of COs. They made comments such as "COs make no attempt to help white and black youths interact" and "Staff do not try to help us unite. They do nothing to improve the relations between us, therefore the relationship gets worse by the day."

Black and other racial minority prisoners - male and female, adult and youth - who would choose racial segregation talked about feeling lonely and vulnerable in prisons. They gave the following reasons for their preferences:

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- Familiarity with prisoners from similar cultural backgrounds helps to reduce loneliness.
- Common languages or dialects are a basis for support and, where necessary, assistance in dealing with prison staff.
- The separation provides safety and protection against the violence of white prisoners and COs.

A very few prisoners who said they believed in racial segregation gave overtly racist reasons for their choices. There were white prisoners who said they do not want to live with black prisoners and black prisoners who said they do not like whites. Some Vietnamese prisoners complained about “Jamaican” prisoners and some whites complained about Asians.

For every prisoner who favoured racial segregation, many opposed the practice. A black woman prisoner, who felt that she had been deliberately placed in a cell with three other black women, commented that if this were the policy of the prison, it would create an “us against them” mentality that would in turn lead to racial tensions. Many prisoners, black and white, identified racial segregation as a “divide and rule” strategy on the part of prison management and staff. For example, several black youth in the Metro Toronto West Detention Centre insisted that “staff try to put people of one race all together, so as to make their job much easier.” Prisoners who recognized that racial segregation is a means of enhancing staff control over them said that it is important for prisoners to resist this practice. They made numerous comments such as: “We are all inmates, no matter what colour” and “Whatever culture, race, religion, we have to unite.”

## **Conclusions**

*The Commission is convinced that some prisons in Ontario tolerate and encourage racial segregation in the allocation of prisoners among living units. In many prisons for sentenced offenders, such as Maplehurst and Vanier, this practice is linked to rehabilitation programs. We will say more about this issue in our discussion of these services.*

Racial segregation in jails and detention centres clearly is a departure from the policies contained in the Initial Placement Report and suggests that judgments of admissions officers are shaped by assumptions based on “race” rather than indicators of security risk. It also appears that

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some admissions officers are influenced by prisoners' "choices." This idea of prisoners' choices is more complex than it might at first seem. Not only are many prisoners influenced by fears based on the hostility of prison environments for black and other racial minority prisoners, but it also appears that prison staff, by giving advice about the "reputations" of different areas of the prison, are able to manipulate prisoners' choices. Whatever the truth about the meaning and role of prisoners' choice in placement decisions, the result, as we have shown, is racial segregation in the initial allocation of prisoners among living units.

However, admissions officers are not wholly responsible for placing prisoners. Crucial decisions about cell and corridor assignments are usually made by COs. It is these "low-visibility" decisions that seem to be most significant to the patterns we have described. While we were told that the most important factor in these assignments is bed space, it is clear that the patterns of segregation are not the result of the random distribution of prisoners. If prisoners had been assigned randomly based on available bed space, it is unlikely that so many COs and prisoners from different institutions would consistently view living areas in their prisons as racially segregated.

Our findings are consistent with research in other jurisdictions with "racially" mixed populations. Studies in the United Kingdom and in the United States have found that racial segregation occurs in many prisons. Interestingly, the excuses given by prison staff and officials in these studies are quite similar to what we heard. For example, two American studies<sup>40</sup> found that management and COs frequently use security concerns to rationalize segregated living areas, believing that integrated prisons are likely to lead to violent, interracial conflict. Similarly, "prisoner choice" is frequently cited as a reason for segregation, and the explanations for such choices are familiar: physical safety, psychological security, and shared interests.

In effect, the best case that prison authorities are able to make for racial segregation is that it improves relationships among prisoners, making the prison easier to manage. However, an important finding of many studies is that *the creation of segregated groups within prisons makes relations among prisoners worse, not better*. For example, one recent



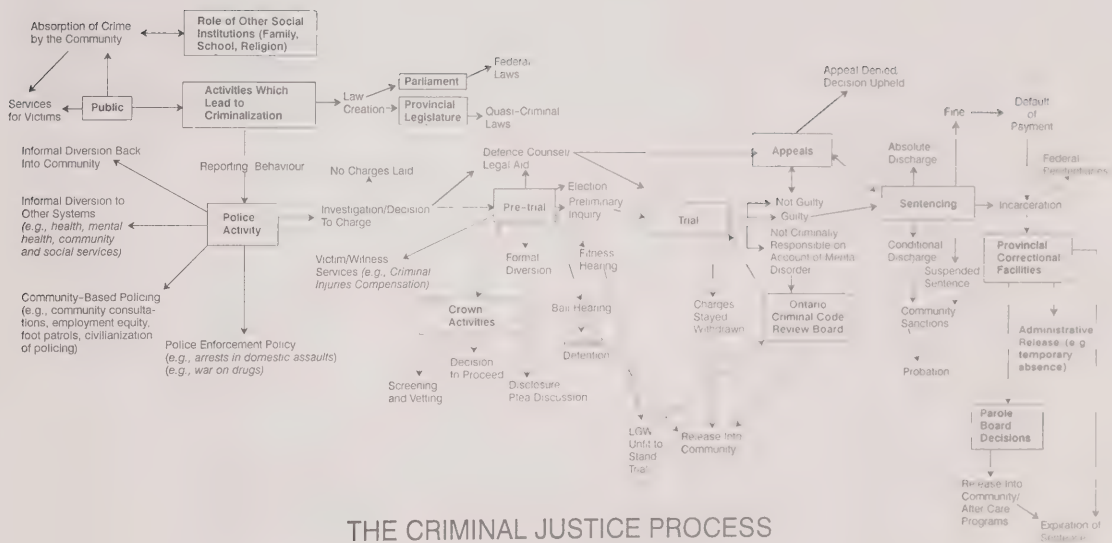
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study concludes that racial segregation intensifies hostilities between racial groups and contributes to tensions in the prison.<sup>41</sup> These consequences occur because racial segregation:

- Reduces opportunities for the development of relationships that cut across racial lines;
- Reinforces cohesion within groups and hostility among groups, contributing to a hardening of an “us against them” mentality; and
- Enforces social distance among prisoners from different communities, creating opportunities for misinformation and destructive rumours.

There is no evidence that racial segregation improves race relations within Ontario prisons. At best, it is a “band-aid solution” directed at the symptoms of racial tensions. At worst, racial segregation contributes to the hostile prison environments described in Chapter 2.

*Racial segregation behind bars reflects a lack of leadership on the part of prison management.* Ultimately, it is the failure of effective direction and control that permits correctional staff to allocate prisoners to living areas on the basis of “race.” This practice must end.



## THE CRIMINAL JUSTICE PROCESS

*Maplehurst Detention  
Centre*



*Vanier Centre  
for Women*



*Syl Apps Campus*



## Chapter 4 Racism Behind Bars: Prison Programs and Services

### Research Focus

The Commission's initial consultations revealed that many prisoners, some prison staff, and most community organizations involved in prison services have serious concerns about systemic racism in the delivery of prison services, treatment, and programs. These sources maintained that black and other racial minority prisoners are much less likely than white prisoners to be placed in meaningful treatment, work, or other rehabilitation programs. They also said that routine prison services, such as grooming products and institutional diets, fail to meet the needs of prisoners from black and other racial minority communities. Other complaints centred on access to religious services and spiritual advisors. It was alleged that in many institutions only prisoners who are white and Christian are able to practice their faith. Language also emerged as a significant concern. According to a number of sources, many prisons tolerate situations where prisoners who do not speak English cannot understand what is happening to them inside the prison and have no means of communicating with staff.

Many of the people we interviewed had a very clear understanding of the problems they had seen and experienced. They said that because MSGCS and MCSS have failed to adapt to the cultural diversity of Ontario, their programs and services are still based on the assumption that all prisoners are Christian, of Euro-Canadian heritage, and speak either English or French. However, this assumption is not recognized as such by prison staff and Ministry officials. The invisibility of this cultural bias, we were told, has three important consequences:

- Prison staff and administrators do not see that existing programs and services wholly fail to meet the needs of prisoners who are not of Euro-Canadian heritage.
- Prison staff and administrators mistakenly believe that by offering the same programs and services to all prisoners, they are treating prisoners equally.
- Prison staff and administrators mistakenly believe that to offer culturally appropriate programs and services to black and other racial minority prisoners is to favour these prisoners or give them "special treatment."

The Commission was strongly urged to investigate programs and services in prisons and to approach this issue from a perspective that emphasizes genuine equality rather than "formal similarity" of



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treatment. In this context, genuine equality means recognizing that prisoners from diverse racial and cultural communities are disadvantaged and may suffer real hardship when the only programs and services available to them are based on the needs of white Euro-Canadians. *Genuine equality demands that programs which reflect the racial, religious, and linguistic diversity of prisoners should be seen as standard prison services and not be viewed as “special treatment.”*

Commissioners were persuaded that we ought to investigate prison programs and services as part of this interim report. We therefore reviewed MSGCS policies and interviewed:

- Staff and volunteers from community organizations;
- Senior Ministry officials and prison administrators;
- Classification officers;
- Correctional officers;
- Adult male and female prisoners from black communities, other racial minority communities and white communities;
- Young male and female prisoners from black communities, other racial minority communities, and white communities; and
- Prison chaplains and other spiritual advisors.

### Rehabilitation Programs

#### Ministry Policies

There are two sets of policies that are relevant to services and programming issues for adult prisoners and youth aged 16 and 17.

##### General Treatment of Prisoners

In its policy statement, “Conditions of Confinement,”<sup>42</sup> MSGCS outlines its general commitment to treat prisoners with decency. This policy includes a range of standards that MSGCS prisons must meet and obligations that are owed to prisoners. According to these policies, prisoners are entitled to “treatment that recognizes their inherent dignity and worth as human beings.”<sup>43</sup> Within this broad goal the Ministry undertakes to ensure that decisions about prisoners’ participation in programs are fair and objective. These decisions should also be made in a manner that is open to scrutiny.

Prisoners are entitled to a safe and healthy environment that responds to their needs and they have a right to be free from discrimination while in

## *Racism Behind Bars: Prison Programs and Services*

the custody of the MSGCS. In terms of the specific issues raised during our initial consultations, Ministry policy states that it will give prisoners opportunities to meet with clergy and spiritual advisors and participate in religious services and will make interpreter services available to those who need them. The “Conditions of Confinement” also confirm that the only limitations on prisoners’ rights to grooming products are safety, security, and hygiene.

Equivalent policies governing treatment while in custody and programming for youth aged 12 to 15 are in the *Child and Family Services Act*<sup>44</sup> and the *Service Philosophy for Young Offenders* of MCSS.<sup>45</sup> The *Service Philosophy for Young Offenders* - the primary source of internal policy governing the treatment of youth aged 12 to 15 - makes no reference to ethnic or cultural diversity. However, this document stresses the importance of recognizing the particular needs of individual young offenders and emphasizes that “no young offender should be ignored, written off or abandoned because he or she does not fit the criteria of any program.”<sup>46</sup>

The *Child and Family Services Act*, the statutory framework within which MCSS operates, affirms that “wherever possible, services to children ... should be provided in a manner that respects cultural, religious and regional differences.”<sup>47</sup> With respect to the care of young offenders while in custody, the *Child and Family Services Act* sets out three specific rights that are relevant to the issues raised in this chapter:

- The right of a child in care “to receive the religious instruction and participate in the religious activities of his or her choice”<sup>48</sup>;
- The right of a child in care “to receive meals that are ... appropriate for the child”<sup>49</sup>; and
- The right of a child in care, upon admission, “to be informed, in language suitable for the child’s level of understanding, of ... the rules governing day-to-day operation of the residential service.”<sup>50</sup>

### Classification Policies and Rehabilitation

Classification policies are more focused. These policies govern the process by which prisoners are placed in specific treatment and rehabilitation programs. The classification policies of the MSGCS reflect current thinking about rehabilitation as a goal of the prison

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system. Rehabilitation is based on the belief that prisons should not simply operate as “warehouses.” Instead, they should offer programs designed to help prisoners deal with the problems that brought them into conflict with the law. To this end, the Province of Ontario maintains a number of specialized prisons that offer intensive treatment programs for adult male prisoners with specific social, behavioural, sexual, and psychological problems.

Rehabilitation is just as important to prisoners in non-specialized institutions. Participation in programs not only gives prisoners something useful to do during their sentences, but, under the Ministry’s incentive system, it also affects their chances for early release.

Rehabilitation programs in Ontario’s prisons include:

- Institutional work assignments designed to promote self-discipline and a work ethic;
- Vocational and other educational programs intended to help prisoners develop marketable skills; and
- Therapeutic and counselling programs that deal with problems such as drug or alcohol abuse, impulse control, and anger management.

In recent years, the rehabilitation ideal has come under attack, particularly in the United States. Drawing on data about rates of re-offending by individuals who have been in prison, critics have argued that prison-based rehabilitation programs do not work.<sup>51</sup> For many of these critics, the main reasons for the alleged failure of rehabilitation are that prisoners are forced to take part in institutional programs and that it is impossible to use treatment and programming to change people who do not believe that such changes will improve their lives.

These concerns about the failure of rehabilitation have influenced Ontario’s correctional philosophy. While rehabilitation is still stated to be a general goal of the prison system, current classification policies strongly emphasize that staff must assess prisoners’ motivation and interest when making recommendations for treatment and program involvement. Sentenced prisoners who do not demonstrate, in ways that can be understood by classification staff, the appropriate commitment to change will be expected to do routine work based on the needs of the prison rather than to participate in opportunities for personal growth.

## *Racism Behind Bars: Prison Programs and Services*

This emphasis on prisoners' attitudes also appears in the internal policies for program placement at prisons for sentenced prisoners. Two examples, drawn from prisons that play significant roles in Ontario's correctional system, illustrate this point.

### Vanier Centre for Women

Vanier is the only prison in the province exclusively designated for sentenced women. It is divided into four living areas, called cottages, for adult women, each with its own combination of security rating and treatment options. One consequence of Vanier's unique role in the prison system is that most of its prisoners have not been through a classification process for determining placement among institutions. Assessment of adult female prisoners for internal placement, therefore, is extremely significant.

Upon arrival at Vanier, all adult women are placed in Timberlea, the reception cottage. Prisoners with less than 30 days remaining until their release dates stay in Timberlea until their release, usually doing domestic work. Women with 30 days or more remaining to be served are assessed for placement in one of the other cottages by the prison Program Planning Board.<sup>52</sup> This Board, made up of the chief psychologist, social worker, principal, and the supervisors of two cottages, meets twice weekly. The Board's decisions deal with placement of prisoners among the 95 educational, recreational, and therapeutic programs available at Vanier as well as with assignments to living areas and work duties.

There are two main sources of information available to the Program Planning Board: the "Timberlea Assessment Report" and a "Psychology Report."<sup>53</sup> The "Timberlea Assessment Report" is prepared by staff. It focuses on the prisoner's uses of and requests for support services and programs and on her goals while at Vanier. The "Psychology Report" is based on the prisoner's performance on the Level of Supervision Inventory (LSI), a standardized questionnaire designed to measure a range of personality traits including "attitude," "institution conformity," and "rehabilitative needs."<sup>54</sup> Drawing on these information sources, the Program Planning Board assesses prisoners' "suitability for" and "interest in" treatment programs, counselling, educational courses, and work opportunities.



## *Racism Behind Bars: Prison Programs and Services*

The policies of the Program Planning Board show the significance of the LSI to the Board's interpretations of prisoners' suitability for and interest in rehabilitative programming. For example, prisoners will not even be considered for placement in Ingleside, the cottage that is seen as the least restrictive and most desirable residence, unless they achieve a very good score on the LSI.<sup>55</sup> Good LSI scores are also necessary for placement in Hochelaga, a cottage that specializes in treatment for substance abuse and psychological counselling.<sup>56</sup> Those women who do not meet the criteria for placement in either of these cottages are assigned to the remaining cottage, Kon-tiki.

### Maplehurst Correctional Centre

Maplehurst, a large prison for men in Milton, Ontario, is known for its emphasis on educational programs. Prisoners who serve their sentences at Maplehurst are divided into two groups. Those in the school side of the institution take secondary school courses tailored to their individual needs, while prisoners in the other part of the institution work in maintenance, groundskeeping, and domestic duties. There is a sharp separation between the living, sleeping, and indoor recreational areas of prisoners in the school and work sections and an equally strong division between their routines. Discipline is strict on the school side, with many rules and regulations governing conduct and careful monitoring of prisoners' behaviour. In contrast, prisoners assigned to the work side at Maplehurst face less control. There are few rules other than those found in all prisons and less supervision of prisoners' movements within the institution.

The internal placement procedures at Maplehurst emphasize educational programming. The Commission was told that upon arrival at the prison, all prisoners watch a video about the range of programs available. They are then immediately given an orientation to and tour of the school, during which the teachers emphasize the value of education. After completing the visit to the school, prisoners meet the members of the Maplehurst Placement Committee who discuss the prisoners' interests and preferences and suggest various options. According to the information we received,<sup>57</sup> prisoners who would benefit from further education qualify for the program if they *can show a real interest* [our emphasis] in improving their education and have been given a sentence that is long enough to allow meaningful progress.

**Prison  
Programs and  
Services:  
What We  
Found**

**Treatment Programs**

We have already described the virtual absence of black and other racial minority prisoners from OCI. This pattern was repeated at all other specialized treatment institutions except for the Northern Treatment Centre, a prison that holds a high proportion of the Aboriginal prisoners in the provincial system.

“Motivation” and Program Relevance

An important part of the explanation for this pattern of segregation is the significance classification staff attach to “motivation” when deciding whether prisoners should serve their sentences in treatment centres. As we have shown, classification staff experience great difficulty in assessing motivation, particularly for prisoners who are not white or who cannot communicate in English or French. Staff have little time in which to talk to prisoners and may be unfamiliar with the body language and vocal cues of individuals from black and other racial or linguistic minority communities. Prisoners from these communities appear to some staff to be excessively alienated from the criminal justice system. Classification officers interpret this alienation as evidence that such prisoners do not want to be helped and will not respond well to the rehabilitation and treatment programs available in specialized treatment prisons.

Our interviews with prisoners suggested that classification officers are partly right in recognizing that these prisoners do not seek treatment in available rehabilitation programs at OCI and other specialized treatment facilities. However, this does not mean that they lack motivation to receive treatment. There are many reasons for their reluctance. These prisoners believe that the treatment programs in Ontario prisons do not serve their needs. They feel that staff do not understand their experiences and frustrations. They are concerned about being placed in group counselling sessions with prisoners and staff who have never experienced the sting of racism. They are worried that treatment programs will not allow them to raise the issues that are most important to them in a way that will help them move forward. Rather than exposing themselves once again to the pain of “not belonging” and the risk that their needs will not be dealt with, these prisoners prefer to face their problems without professional assistance.

## *Racism Behind Bars: Prison Programs and Services*

Our interviews with current and former prisoners at Vanier Centre for Women revealed that there are very few black and other racial minority women in the treatment cottages. Most are housed in Kon-tiki, the cottage where, according to staff, there are no expectations or demands for program involvement.

Prisoners from black and other racial minority communities complained that they find it very difficult to get places in useful programs that will enhance their skills or increase their chances for early release. Most black prisoners end up being assigned to domestic work in the prison or placed in meaningless programs such as crochet and aerobics. Some black women are frustrated in their attempts to enrol in programs that they feel will be helpful. On countless occasions, they said, black women wait-listed for popular programs see white prisoners further down the list admitted before they are.

As a justification for why black and other racial minority women are not involved in treatment programs, staff at Vanier said that in the past there were large numbers of Aboriginal women in these programs. They believe that at present, however, black and other racial minority women either do not need or do not want these programs. Senior managers said that even when staff spend considerable time explaining what programs are available, many black and other racial minority women show no interest.

Many rehabilitation programs in prisons are not delivered by MSGCS staff but by community agencies funded by the Correctional Ministries. Workers and volunteers from these agencies told the Commission that programs may be quite unsuitable for black and other racial or linguistic minority prisoners. They were not at all surprised at the low rates of participation by black and other racial minority prisoners in rehabilitation programs. Some community workers commented on how much effort and determination black and other racial minority prisoners require to succeed in mainstream programs.

It appeared from our interviews that many black women at Vanier also feel that most of the programs available to them are irrelevant to their needs. There was a remarkable difference between the listless way in which these women talked about the standard institutional programs

## *Racism Behind Bars: Prison Programs and Services*

and their enthusiasm for a recent initiative at Vanier - the Black Cultural Awareness Program. Black prisoners showed enormous pride in this program, saying that it provides education, builds self-esteem, and is a source of emotional support. They are very aware, however, of the opposition of many Vanier staff to the introduction of this program and know that its survival is largely due to the determination of a black staff member and the support of the superintendent.

Staff members who are opposed to the Black Cultural Awareness Program believe that it gives preferential treatment to black prisoners, echoing a recurrent theme from a number of facilities. We were told by a senior official at the women's prison in the Metro West Detention Centre that there are no special programs for racial minority groups because "it would be problematic to start differentiating." This official said that if "special services" were started for one particular group, they would have to be extended to all groups. Similarly, staff in several prisons for youth are opposed to "black studies" in the school curriculum, Caribbean Cultural Awareness groups, and events that mark "Black History Month" because they think that such programs involve "reverse racism" or "special treatment."

By contrast, the Deputy Superintendent of Sprucedale Youth Centre told us that there is a regular program for Aboriginal prisoners, the largest group of prisoners in that prison who are not white. He also said that the prison routinely draws on members of black, Vietnamese, and other racial minority communities to try to meet the rehabilitation needs of prisoners. At Sprucedale, these initiatives are not seen as "special" treatment for minorities but as the best way, given limited resources, to make up for the failures of programs designed for youth of Euro-Canadian heritage.

### School and Work

Similar themes emerged from Maplehurst Correctional Centre. The Commission found that only approximately 30% of the black prisoners at the Maplehurst Correctional Centre were enrolled in the school programs while the remaining 70% spent their time doing menial work in the prison. The proportion of white prisoners in the two programs



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was almost exactly the reverse, with about 75% of white prisoners at Maplehurst taking courses to improve their formal educational qualifications and only 25% on the “work side.”<sup>58</sup>

Senior staff at Maplehurst were startled by our observations. At first, they insisted that the racial mix on the “school side” is about the same as the “work side.” When pressed further, staff said that prisoners’ choices could be the only explanation for any differences between the population mixes in the two parts of the prison. Staff agreed that other possible factors, such as waiting lists for the school programs and prisoners’ sentence lengths, should not be relevant because they ought to affect black and white prisoners equally.

Many of the black prisoners at Maplehurst said they prefer the “school side” of the prison because it is quieter, has fewer problems among prisoners, and most of the staff are enthusiastic about their work. These prisoners thought it “strange” that so many of the black prisoners are on the “work side” of the prison. Some suggested that waiting lists for school programs might be manipulated to give preferential treatment to white prisoners. Others felt that although the prison gives everyone a choice about programming, not enough effort is made to encourage black prisoners to choose the “school side.” These prisoners told us that many black youth in Ontario’s cities have experienced racism from teachers in the formal schooling system and that they feel education will not help them to get a job. Our sources suggested that this sense of despair may result in black prisoners feeling that there is no point in attempting to enrol in educational courses.

In the work section of Maplehurst, the key issue is work assignments. Staff and prisoners agreed that most black prisoners are assigned to the kitchen and have no choice in the matter. Many prisoners complained that kitchen duty is hot, hard work and that they are constantly monitored by staff. Others said they felt there are some benefits to working in the kitchen such as the chance to learn new skills and cook their own food. However, even these prisoners resented being stuck in low status jobs when white prisoners are able to choose “good jobs” such as outside work gangs and maintenance crews.

The Adequacy of Rehabilitation Programs

Mainstream as well as black and other racial minority community workers who deliver prison rehabilitation programs recognized the inadequacy of these programs but were pessimistic about change. They said that although prison populations have been rapidly changing, particularly in the last decade, many senior prison officials seem unwilling or unable to grasp the implications of these changes.

The Commission finds that *the rehabilitation services available to black and other racial minority prisoners are inadequate*. Too many Ministry staff need to be reminded that rehabilitation is supposed to meet the programming and treatment needs of individual prisoners. *It is absurd to believe that equality means that all prisoners, whatever their race or cultural heritage, should receive identical services*. No one would suggest, for example, that all prisoners should receive treatment for substance abuse without consideration of the specific offence, personal histories, and needs. As far as black and other racial minority prisoners are concerned, we agree with the classification officer who told us: "The system simply recycles prisoners by having them do odd jobs that provide no assistance for their future re-integration into society."

**Other Prison  
Services:  
What We  
Found**

Prisons are obliged to provide all prisoners with basic needs such as food, hygiene, clothing, and opportunities for religious worship. While all prisoners have the same basic needs, there are differences in what is required to meet these needs. We found that the Ontario prison system principally caters to white, Euro-Canadian norms and that the service needs of black and other racial minority prisoners remain either unacknowledged or dismissed.

Respect for human dignity requires that these basic needs be met on a fair and consistent basis. Prisoners should not be placed in the demeaning position of constantly having to explain and plead for their needs. There is a danger that some correctional officers may resent prisoners who assert themselves in this way. Moreover, the effect of this situation is to create a constant assault on self-esteem which can only be counter-productive to other rehabilitation efforts.

## *Racism Behind Bars: Prison Programs and Services*

### **Prisoners' Requests**

Black and other racial minority prisoners told us that some COs openly discriminate in the delivery of the most basic prison services. This experience is particularly frustrating because prisoners depend on COs' co-operation to obtain the simplest things - a pencil, a bar of soap, or writing paper. Black and other racial minority prisoners consistently complain that their requests for small but important items are often ignored, while the same requests from white prisoners are usually dealt with more promptly. Women prisoners at the Metro West Detention Centre gave us this example.

A black women in the prison had asked a CO for paper to write a letter. The CO ignored her, saying that he was busy. About three hours later, the prisoner again asked for paper. Once more the CO said that he was too busy. A white prisoner who had seen the whole incident, approached the black prisoner and volunteered to ask the CO, saying "Don't worry, I'll get the paper." As soon as the white woman made her request, the CO stopped what he was doing and went to fetch the paper.

Black and other racial minority prisoners believe that they receive poorer quality provisions and services than white prisoners. For example, adult male prisoners at the Metro West Detention Centre complained that white prisoners get the best mattresses. Black and other racial minority women at Vanier said that white women are given the better quality shoes that are available. They told the Commission that many white prisoners are aware of the situation and, when leaving the prison, pass their shoes on to black women. At other prisons we were told that COs on duty in ranges that house black prisoners do not plug in the warming devices for the food trolleys so that the prisoners' meals are frequently cold.

One CO summed up the petty contempt for black prisoners that many of his colleagues seem to feel, by saying:

Those [black] ranges suffer in terms of what they get. They get the worst clothing, the worst service. Any range in which I work, I want the same breakfast as everywhere else in the jail. I want the same clothing change as everywhere else in the jail. It's disheartening. I used to go into 3C [a mostly black range]. The prisoners would say "Oh man, we're so glad to see you. Look at

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the clothes they give us, look at the food they give us.” But if you go to 4C [a mostly white range], it’s the reverse.

### **Personal Care Products**

Concerns about access to grooming and sanitary products raised more systemic issues. Prisoners are dependent on prison authorities for shampoo, combs, other hair care products, soap, and skin creams. Personal care items viewed as essential to basic cleanliness are supplied by the prison; a very limited range of items, seen as desirable but not strictly necessary, are made available on a “canteen list” for purchase by prisoners who have money in their prison accounts.

Black prisoners, both female and male, told us that many of the personal care products supplied in prisons are completely unsuitable for their needs. Prisoners are given combs with fine teeth which they cannot use on their hair. Similarly, the shampoos and other hair grooming products supplied in prisons are designed for people of European heritage. Black prisoners who try to use such products suffer hair damage, hair loss, and scalp disorders.

Nor are prisoners in a position to purchase suitable alternatives. In many prisons housing substantial numbers of black prisoners, there are no products on the canteen list suitable for the skin or hair of black people. Even a simple item such as vaseline, which, although not ideal, would be better than products designed for people of European heritage, is not available in some prisons. Some prison staff are prepared to purchase items for prisoners outside the institution but there is great inconsistency in this practice.

The Commission obtained canteen lists from adult and youth prisons and confirmed that products designed for black people are not listed. When we asked prison administrators and managers about this problem we were given the surprising response that “security concerns” prevent them from stocking products suitable for black people. There was little uniformity, however, about the exact reason why personal care products for black people should be a security risk while those intended for white prisoners are judged safe. Some administrators talked about packaging. They said that the containers for black personal care products are more dangerous than the containers for white products.



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This concern seemed to mean either that products for black people have opaque packaging in which prisoners could hide contraband or that the products are more likely to be packed in glass containers, thus providing a risk that prisoners would break a container and deliberately injure themselves or others. Other managers said they are concerned about the products. Most stressed the colour and texture of the products, again saying that prisoners could hide contraband. The Commission was also told that black prisoners could not have vaseline because they would use it to grease their bodies so that they could escape more easily.<sup>59</sup>

There are prisons, such as Sprucedale Youth Centre, the Toronto Jail, and Vanier Centre for Women, that stock a limited range of products suitable for black prisoners. Interestingly, not one of the administrators of these prisons reported any security problems arising from the availability of such products.

The Commission finds that the failure to supply black prisoners with personal care products appropriate to their needs is discriminatory. We also find it inexplicable.

### **Treatment during Pregnancy and Sanitary Products**

Health-care and access to medical services, particularly during pregnancy, are of great concern to black female prisoners. Most of these concerns involved the action or inaction of COs. While the prison policies are quite clear, there is some question about the implementation of the policy by line staff. For example, some black prisoners said that COs force them to do hard physical tasks at late stages of their pregnancies while white prisoners are relieved of heavy duties much earlier. Other black prisoners told us that COs had not given them the supplementary vitamins and extra milk that are supposed to be provided to all pregnant women in prison. There were also complaints that COs do not acknowledge black women's needs to rest during pregnancy.

Black women prisoners in the Metro West Detention Centre also complained about the supply of sanitary products. They told us that COs sometimes do not respond to their requests for sanitary napkins for several hours, a discomfort with which most women can identify.

## *Racism Behind Bars: Prison Programs and Services*

Many women at Metro West also resent having no choice but to ask male COs for sanitary supplies, especially as the women are not given enough to meet their needs for their menstrual periods but have to ask each time they need to change a pad or a tampon. Not only do the prisoners find this experience embarrassing, they also feel that many male COs “do not have a clue.” To illustrate their concerns, several women told us of occasions when they had asked for pads and been given tampons or requested tampons and been given pads.

We were also told that in some prisons women prisoners are not issued clean underwear on a daily basis but must wear the same pair of panties for several days. Some women said they had attempted to “beat the system” by making daily requests for sanitary napkins which they would then use as panty-liners. The Commission understands from the management at Metro West that this action by women prisoners created a crisis for the prison budget, in response to which the prison increased the women’s underwear allowance and installed washing machines in the living units.

We have no evidence of differential treatment on this issue. Nevertheless, because the practice of forcing women to wear the same underwear for several days is seriously degrading and unhygienic, we believe it is important to note in this report.

There is another aspect of the interaction between female prisoners and male COs at Metro West Detention Centre that the Commission found very disturbing: strip-search procedures. Many women prisoners complained about the insensitive and demeaning manner in which such searches are conducted. According to current and former prisoners of this institution, it is common for male COs to be present while female COs are strip-searching women prisoners. The Commission was relieved to find that there are no allegations that male COs, in breach of the letter of the law, actually participated in strip-searches of women prisoners. We nevertheless believe that the presence of male COs during such searches offends the spirit of the rules.<sup>60</sup>

### **Diet**

Concerns about diet emerged as a strong theme of our research into prison services, particularly among black and other racial minority prisoners in young offender institutions. In addition to the failures to

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respect special diets based on religious observance discussed in an earlier section, black and other racial minority youth complained about the cultural bias of prison diets. They told us that the standard diet in prisons for youth caters solely to Euro-Canadian palates and that there is little recognition of the needs of a culturally diverse prison population.

Many youth said that they try to raise their dietary problems with prison staff but that their efforts are met with contempt. One young man said that COs responded to the concerns of a group of black youth with: “You’re from countries where there are lots of starving people, so why don’t you just eat the food and shut up?” This theme recurred. Youth in another prison reported that a CO had said: “In Africa there are thousands of hungry people and maybe what some of you black guys need is to be sentenced in one of those starving African countries.” We were also told that in some youth prisons, complaints about food are treated as breaches of prison rules and grounds for “misconducts.”

While it was in the youth prisons that the Commission heard the most consistent and persistent complaints about food, the issue of diet is also significant for adult female and male prisoners from black and other racial minority communities. In all of the prisons we visited, except for the Toronto Jail and Maplehurst Correctional Centre, prisoners made the same points. Their diets are “alien,” “too white,” “too Canadian,” and “not spicy enough.” These prisoners could not understand why it is so difficult for prison administrations to provide some meals that they would find familiar.

We put this question to prison administrators. Their responses were quite mixed. Some senior managers insisted that their prisons had to provide the same meals for everyone. The Commission was told, for example, that: “If we allow one group to have their special diet, then everyone’s going to be asking for special food.” Conversely, senior administrators of other prisons talked proudly of the number of special diets which they were able to make available in their institutions as a reflection of their respect for cultural diversity.

The Commission was once again struck by the extraordinary variation in the practices of Ontario’s prisons. On a matter as simple but as vital as food, some prison administrations take the position that problems

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would follow from recognising the cultural diversity of their populations, while in other prisons the need is identified and met without difficulty. It is hard to avoid the conclusion that the critical difference between the two types of prisons is whether the administration takes seriously its obligations to recognize prisoners' inherent dignity and treat them in a non-discriminatory manner.

### **Religious Observance**

Prisons must give prisoners opportunities to practice their faiths. In some Ontario prisons, the administrators seem to believe that this obligation is met as long as the prison has Christian chaplains. Both Christian and non-Christian prisoners report enormous difficulties in maintaining even minimal religious observance. This concern was particularly important to many of the youth we interviewed. We were told by several Aboriginal youth, for example, that in some prisons, institutional rules prevented them from having access to medicine bags, sweet grass, and prayer pipes, items which are essential to their religious practices.<sup>61</sup>

Adult Aboriginal prisoners also said they experience lack of respect for, and understanding of, their spiritual beliefs. In particular, some prison administrators do not seem to realize that Aboriginal prisoners do not all observe the same religious ceremonies. For example, Aboriginal prisoners in a prison that has a sweat lodge and permits some Aboriginal ceremonies said they had approached the prison management to ask for other arrangements because those that were available were not part of their spiritual practices. According to these prisoners, a senior administrator responded to their request by saying: "You've got your ceremonies. What do you want now?"

In several prisons youth and adult prisoners of the Muslim faith said that their Korans are handled and examined by non-Muslim staff during cell searches. The prisoners find it very hard to tolerate this action because it is a serious violation of their faith. Muslim youth in some prisons told us that: "No provisions are made for kids who want to observe the holy month of Ramadan." Others reported that COs make it difficult for Muslim youth to observe their rules of prayer. For example, a young Muslim told us: "I am not allowed to carry around my Koran at all. They tell me I should leave it in my room and go for it



## *Racism Behind Bars: Prison Programs and Services*

when I need to pray. But whenever I ask a staff to take me to my room, it poses a big problem.” From this it may be seen that requests to observe daily religious practices in prison are viewed by some staff as interrupting or interfering with institutional routine. If staff respond negatively or grudgingly to such requests, prisoners may become discouraged. This can in turn interfere with both their self-esteem and their rehabilitative prospects.

Muslim, Buddhist, and Hindu prisoners in adult and youth prisons consistently said that little effort is made to find them the spiritual leaders they need. For example, one youth of Chinese heritage told us that he had regularly asked to see a Buddhist monk and that during the two years that he had already spent in prison, not once had his request been granted. According to this prisoner, the administration’s explanation was that they could not find a Buddhist monk.

Many black prisoners of Christian faiths, adults and youth, were also very dissatisfied with the access to religious services within the prison. They resent the dominance of the Salvation Army and the Roman Catholic Church in the chaplaincies of many prisons, describing the available services as not appropriate for them. In some cases, black prisoners told us they have given up on the institutional services and created their own rituals of Christian observance. Prisoners at the Toronto Jail, for example, described a simple ceremony that they use on Sunday mornings. The prisoners cover a table in their living area with a white cloth and place some fruit on it; someone in the group then reads out a few passages from the Bible and the prisoners spend time in prayer.

### **Language**

The Commission was extremely troubled by the situation of prisoners who do not speak English. While the province is now committed by law to delivering government services, including prison services, in French, there is no formal obligation to address the needs of other linguistic minorities. According to our sources, even the francophone services in many prisons are not always adequate. For other prisoners who do not speak English, there is little apart from a few initiatives to translate some prison materials into Aboriginal languages. As a result, linguistic minorities may find themselves totally isolated, unable to

communicate their needs or understand what is required of them. The Commission finds it unacceptable that such a situation should continue to exist when 15 years ago, a Royal Commission which exhaustively examined practices and procedures at the Toronto Jail recommended that notices of prison rules and regulations “*in all the principal languages of the inmate population*” [our emphasis] should be posted throughout the prison.”<sup>62</sup>

It seems that many prisons respond to this problem in an ad hoc fashion. Interpreters are provided for formal procedures, such as misconduct reviews<sup>63</sup> and parole board hearings.<sup>64</sup> Otherwise, the prison relies on prisoners from the same linguistic minority who have a better command of English or use a staff member to communicate instructions and rules. This situation is completely unacceptable.

The Commission is looking at the issues of linguistic minorities and interpreter services throughout the criminal justice system for our final report.

## Conclusions

This inquiry into prison programs and services has shown that *many institutions operated by the Correctional Ministries in Ontario fail to recognize the “inherent dignity and worth” of prisoners. Nor do they “treat prisoners as individuals.”* Available services are often inaccessible to black and other racial minority or linguistic minority prisoners or are inappropriate to their needs. Prisoners from these communities who struggle to receive services that match those routinely provided for white prisoners face the risk that they will be viewed as over-assertive or as “trouble-makers.”

The differences among the prisons are striking. All institutions except, perhaps, OCI are attempting to cope with too many prisoners and too few resources. However, there are remarkable variations in the willingness of prison administrators to address the needs of their black and other racial or linguistic minority prisoners. Some administrators are taking the challenge of cultural diversity seriously. They seek to inform themselves and their staff about the social, religious, and cultural customs of their prison populations and look for ways to diversify their services. *These officials clearly understand that equality does not mean sameness; rather, it demands equivalence in programming and service provision.*

## *Racism Behind Bars: Prison Programs and Services*

Other administrators seem determined to hold on to their conventional understanding of prison services. Prisoners' requests for "different" services are viewed with suspicion and seen as special pleading or attempts to gain advantages. These officials do not recognize the simple point that standard prison programs and services are based on the needs of white Euro-Canadians. Thus under the "equality means sameness" model, it is these prisoners who are advantaged and who receive "special treatment."

Overcoming the failures of the Ontario prison system in this instance - as in the other contexts dealt with in this interim report - requires leadership and direction from those responsible for the institutions. Prison managements must find ways to use their power effectively and their resources productively to ensure that all prisoners, whatever their race, culture, religion, or linguistic heritage, receive services that recognize their needs and their *inherent dignity and worth*."

*Laundry Room-  
Maplehurst Detention  
Centre*



*Upholstery Room-  
Maplehurst Detention  
Centre*





*Holding Cell-  
Toronto Jail*



## Chapter 5 Recommendations

### Objectives

Our constitution, legislation and legally binding regulations all prohibit discrimination based on race. Ontario government policies for correctional facilities reinforce the basic value of equality in the treatment of prisoners. However, in spite of these well-intentioned statements, the reality of racism continues to deform Ontario's correctional institutions.

The problems identified in this interim report must be attacked immediately, with a view to achieving the following objectives:

1. **The classification of prisoners to institutions must be modified to ensure that all prisoners receive the most beneficial treatment without barriers or disadvantages based upon their race.**
2. **The classification and assignment of prisoners within institutions must be modified to ensure the same objective and, in particular, to eliminate residential segregation based on race.**
3. **All prisoners must be treated with dignity and, in particular, not be subjected to racist language, racial stereotyping, or contempt for their cultural integrity.**
4. **Correctional treatment must include the provision of appropriate services that are based on respect for the cultural, linguistic, religious, and personal care needs of prisoners.**

### Approach

Any effort to reduce and eliminate overt and systemic racism in Ontario's correctional institutions can only be successful if it is based on three interacting principles:

1. **Correctional Ministers and their deputies must demonstrate ongoing aggressive commitment to the elimination of all forms of racism in Ontario corrections.**

There are two Ministries (the "Correctional Ministries") directly responsible for corrections in Ontario - the Ministry of the Solicitor General and Correctional Services and the Ministry of Community and Social Services. There must be no ambiguity in the leadership of these Ministries on this issue. Change will not occur without direct and sincere commitment "from the top."

## *Recommendations*

- 2. Operational responsibility and accountability for the elimination of overt and systemic racism must be placed squarely in the hands of institutional superintendents.**

Superintendents in each institution are in the best position to promote and monitor changes at the local level. Our research has documented substantial variation in the toleration of racism in Ontario correctional institutions. This suggests that superintendents have considerable autonomy to develop and administer strategies to combat this problem. Therefore, superintendents must also demonstrate aggressive commitment to the elimination of racism and must be accountable for the results in each of their respective institutions.

- 3. Community organizations at both provincial and local levels must play a central role in the development of anti-racism policies and practices.**

The Commission's interim research demonstrates that the Correctional Ministries have failed to deal effectively with racism within their institutions. The Ministries are woefully behind in adjusting to changing prison demographics. They continue to provide programs that do not meet the cultural or linguistic needs of black and other racial minority prisoners.

Correctional Ministries must involve community organizations with a track record of confronting racism through the development of effective anti-racism policies and programs.

## **Implementation Strategy**

The solutions to the problems documented by our research are not overly complex. Some flexibility may be required to achieve the objectives and remain consistent with the principles stated above. Nevertheless, an implementation strategy must be adopted to ensure that there is an immediate, ongoing, and result-oriented attack on the problems identified in this report.

In some areas, an implementation date of May 1, 1994 has been recommended. Our purpose is to concentrate attention on the need to act as quickly as possible. This date will also allow the Commission to review any action taken prior to the publication of our final report.

Our strategy for implementation contains three essential elements:

- Commitment from Ministers and Deputy Ministers,
- Direct responsibility on the part of institutional superintendents, and
- Direct involvement of community representatives.

However, it is not enough to assume that the identification of these elements will automatically produce results. Ministers and their Deputies have a broad range of responsibilities and demands, not to mention occasional crises. Even if the problem of racism is placed high on a priority list, it is not certain how long it may remain there in the face of competing demands. The needs of prisoners, in particular, may be quickly abandoned when measured against higher profile interests. Similarly, some superintendents may conveniently delegate the problem to others while the institution continues to operate as it has in the past. Finally, without adequate resources and proactive efforts to involve them, community representatives may have difficulty in playing a meaningful role in the development of anti-racism policies and practices.

## **Recommendations**

### **1. Anti-Racism Co-ordinator for Adult Corrections**

The Commission believes that an Anti-Racism Co-ordinator for adult corrections should be appointed immediately, with a mandate and corresponding authority to achieve the objectives identified in this report. This Co-ordinator might be seconded from another government department or agency or be retained on contract from outside of government. S/he should report directly to the Deputy Minister responsible for adult corrections. It is crucial that the Co-ordinator receive the full support of the Minister and have direct access to the Deputy Minister.

The Commission is not proposing that the role of Anti-Racism Co-ordinator be established by legislation at this time. However, it is important that the mandate for this position and the authority to fulfil this mandate be specifically documented and made public. This documentation might take the form of a "Memorandum of Agreement" between the Co-ordinator and the Minister responsible for adult corrections.



## Recommendations

### Recommendation #1

- (A) **An Anti-Racism Co-ordinator with jurisdiction over adult corrections should be appointed immediately, with the broad mandate and authority to achieve the four objectives outlined in this report.**
- (i) **This mandate and corresponding authority should be specifically documented and made public.**
  - (ii) **The Co-ordinator should report directly to the Deputy Minister responsible for adult corrections.**
  - (iii) **The Co-ordinator should not be seconded from the Ministry responsible for adult corrections.**
  - (iv) **The Ministry responsible for adult corrections should ensure that the Anti-Racism Co-ordinator is provided with sufficient resources to perform the necessary functions.**
  - (v) **The Minister responsible for adult corrections should direct Ministry officials to co-operate fully with the Co-ordinator, to provide all relevant information upon request, to facilitate access to prisoners and staff, and to exercise their discretion under the *Freedom of Information and Protection of Privacy Act* in a way that assists the work of the Co-ordinator.**

### 2. Anti-Racism Co-ordinator for Youth Corrections

The Commission notes that s. 102(b) of the *Child and Family Services Act* already authorizes the Office of Child and Family Service Advocacy “to advise the Minister on matters and issues concerning the interests of [children in care].” This mandate is sufficiently broad to include problems related to racism in institutions. However, the specific role of acting as Anti-Racism Co-ordinator for youth should be documented in a similar manner to that proposed for adult corrections. The Commission has noted the prompt, thorough, and continuing interest of the Office of Child and Family Service Advocacy in responding to complaints at the Syl Apps facility over the past year, including complaints about racist attitudes and behaviours.

**Recommendation #2**

- (A) The Office of Child and Family Service Advocacy should be designated to act as Anti-Racism Co-ordinator for all young offenders.
- (B) The current memoranda of agreement between the Correctional Ministries and the Office of Child and Family Service Advocacy should be amended to reflect a similar mandate, authority, reporting structure, co-operation, and resources as that of the Anti-Racism Co-ordinator for adult offenders.

**3. Functions of the Office of the Anti-Racism Coordinators**

It is important that the Anti-Racism Co-ordinators should act proactively as well as reactively. There is considerable scope for initiatives to be taken and for creativity to be used in dealing with the general problem of racism within prisons. Nevertheless, a number of specific functions also should be documented.

**Recommendation #3**

The Office of the Anti-Racism Co-ordinator for adult corrections and the Office of Child and Family Service Advocacy should include the following functions:

- (i) Ensuring and overseeing the development and implementation of strategies for ongoing community involvement in corrections;
- (ii) Recommending anti-racism strategies to the Correctional Ministries for implementation in institutions;
- (iii) Conducting systematic reviews of ministry-wide programs and policies;
- (iv) Conducting periodic and random audits of prison conditions, programs, practices, and services;
- (v) Investigating complaints of racism from staff or prisoners;

## *Recommendations*

- (vi) **Receiving periodic reports on anti-racism initiatives and records of racist incidents from superintendents;**
- (vii) **Publishing reports on their activities, progress and requirements on a periodic basis and in Ministry annual reports.**

### **4. Role of the Institutional Superintendent**

We have identified the “hands on” role of the institutional superintendent as critical to the elimination of racism in each correctional facility. Greater responsibility should be undertaken by each superintendent, who must be accountable for success or failure in combatting racism within his/her institution. The elimination of racism must be recognized as an important responsibility in the role of superintendent. Success or failure in meeting this responsibility should be a measure of the performance of each superintendent.

#### **Recommendation #4**

**The elimination of racism should be specified as a responsibility in each superintendent’s job description and should form a principal element in his/her performance appraisal.**

### **5. Abolition of Racial Segregation of Prisoners**

Prisoners should be randomly distributed to facilities and to ranges within institutions. Residential segregation is not acceptable except in cases of extreme and temporary emergency.

The Commission’s conclusion that residential segregation is not generally acceptable should not be used by Correctional Ministries as a rationale for failing to provide culturally appropriate programming.

At the institutional level, the responsibility for monitoring trends toward segregation should rest with the superintendent, who should report monthly to the Anti-Racism Co-ordinator. Once systems are in place, this should not be an expensive or onerous task.

Superintendents should also be responsible for collecting data and reporting on classification decisions. The issue of the collection and use of race statistics throughout the criminal justice system will be dealt

## *Recommendations*

with in our final report. Nevertheless, the gathering of statistics by race in relation to Ontario prisoners should be improved by establishing greater uniformity and adopting a more refined self-identification process.

Our recommendations in relation to collection and reporting by superintendents must be interpreted within the context of the authority and functions assigned to the Anti-Racism Co-ordinators discussed in our previous recommendations. In particular, the Anti-Racism Co-ordinators will report directly to the Deputy Ministers and will have the authority to publish reports on a periodic basis as well as in the Ministries' annual reports.

### **Recommendation #5**

- (A) Racial segregation of prisoners, as currently practiced in Ontario correctional facilities, must be abolished.**
- (B) To further this objective:**
  - (i) The gathering of statistics by race in relation to Ontario prisoners should be improved by establishing greater uniformity and adopting a more refined self-identification process.**
  - (ii) Each superintendent should collect and report at least monthly to the Anti-Racism Co-ordinators, the racial composition of the prisoner population by range (or equivalent) and by program involvement.**
  - (iii) Each superintendent should forward quarterly reports of classification decisions to the Co-ordinators.**
  - (iv) The reporting format should be established by the Anti-Racism Co-ordinators following consultation with each superintendent.**
  - (v) The Anti-Racism Co-ordinators should be entitled to receive further elaboration or an explanation from a superintendent on request.**



## *Recommendations*

### **6. Classification Staff Qualifications and Training**

This report has identified numerous deficiencies in the process of classifying prisoners following sentencing. In addition to reporting classification decisions to the Anti-Racism Co-ordinators, the qualifications and training of classification staff need to be standardized and improved. Training should include anti-racism training with a special emphasis on assessing prisoners for placement in treatment facilities. Classification staff should regularly visit treatment facilities and correctional centres in order to familiarize themselves with available programs.

#### **Recommendation #6**

- (A) Standard qualifications should be established for all post-sentence classification staff.**
- (B) The Correctional Ministries should develop and maintain standardized training for all staff involved in post-sentence classification and placement.**

### **7. Pre-Trial and Post-Sentence Policies**

This report has identified a number of concerns related to the selection of institutions in which prisoners are placed at both the pre-trial and post-sentence stages. In addition to establishing qualifications and training, this is an area in which the exercise of discretion should be restricted by the application of specific criteria. The Correctional Ministries should develop and implement province-wide non-discriminatory policies with detailed guidance for the classification, placement and movement of prisoners. For example, prisoners should not normally be placed in higher level security institutions than their sentences warrant. The Anti-Racism Co-ordinators should also review the application of these policies and, in particular, any deviation from their objectives through the exercise of individual discretion.

**Recommendation #7**

**By May 1, 1994, the Correctional Ministries should establish and implement province-wide non-discriminatory policies for:**

**(A) Pre-Trial**

- (i) Placing prisoners in units within jails and detention centres;**
- (ii) Moving prisoners from one unit to another within jails and detention centres;**
- (iii) Moving prisoners among jails and detention centres.**

**(B) Post-Sentence**

- (i) Classifying prisoners for assignment to correctional centres;**
- (ii) Classifying prisoners for placement within correctional centres;**
- (iii) Reclassifying prisoners for transfers between institutions.**

**8. Culturally Appropriate Programs and Services**

A number of steps should be undertaken to address the inadequacy of programs and services in meeting the needs of black and other racial minority prisoners.

The Initial Placement Report (IPR) form should be modified to identify cultural, linguistic, religious, and personal care needs.

The Correctional Ministries should immediately undertake a needs analysis of all racial minority prisoners. This review should include an examination of the adequacy of available reading material, canteen lists, food and dietary provisions, and the opportunity for religious observance.

The funding of ethno-cultural programs should also be reviewed. To provide appropriate programs and needed services, each institutional superintendent should consult extensively with community agencies to assess the needs of black and other racial minority prisoners in his or her institution.

## *Recommendations*

### **Recommendation #8**

- (A) The Initial Placement Report (IPR) form currently used in adult corrections should be modified to identify cultural, linguistic, religious, and personal care needs of black and other racial minority prisoners.**
- (B) By May 1, 1994, institutional superintendents should have completed a needs analysis of all racial minority prisoners and should have established action plans to provide culturally appropriate programs and services.**
- (C) By May 1, 1994, institutional superintendents should have in place additional mechanisms to assess linguistic, religious, and dietary needs of prisoners at the point of entry into a correctional facility.**

### **9. Black and Other Racial Minority Women Prisoners**

Women prisoners are in a unique position in Ontario's correctional system. They form a small percentage of the prison population, and the facilities available to them are considerably restricted in comparison to those of male prisoners.

Black and other racial minority women prisoners face many of the same problems which have been identified in relation to male prisoners. However, their unique situation renders them even more vulnerable. This report has described differential treatment of pregnant prisoners based on race as well as insensitivity to the needs of women prisoners generally.

It is important that the Anti-Racism Co-ordinators be particularly vigilant in relation to the treatment of black and other racial minority women prisoners and sensitive to their special needs.

### **Recommendation #9**

- (A) The Anti-Racism Co-ordinators should address the needs of black and other racial minority women prisoners as being additional to and distinct from those of male prisoners.**

- (B) The racially differential treatment of pregnant prisoners should be eliminated immediately, particularly in relation to physical labour, rest periods, medication, clothing, and nutrition.**

### **10. Transfer of Black Remand Prisoners**

This report has described the disproportionate transfer of black remand prisoners from Toronto prisons to the Hamilton-Wentworth Detention Centre as being "completely unacceptable." Although these *interim* recommendations have not focused upon specific problems in relation to particular institutions, this problem should be addressed immediately. The co-operation of the superintendents of the Toronto adult male jails and detention centres and the Hamilton-Wentworth Detention Centre will be necessary.

These superintendents should review both the selection criteria for transfers and the manner of their application. Changes must be implemented to eliminate the disproportionate number of prisoners who are placed in Hamilton while awaiting their trials in Toronto.

As an *interim* measure to deal with this problem, the superintendents should immediately impose a temporary quota system. While a quota system may be a blunt instrument for dealing with this many-sided issue, the severity of the problem warrants its application at this time.

The steps taken by the superintendents to deal with this problem and the results achieved should be reviewed by the Anti-Racism Co-ordinators at an early opportunity.

#### **Recommendation #10**

- (A) The superintendents of the adult male jails and detention centres in Metropolitan Toronto and the Hamilton-Wentworth Detention Centre should immediately review the selection criteria for the transfer of pre-trial detainees from Toronto to Hamilton as well as the application of those criteria in practice. By May 1, 1994, the superintendents should implement a plan to eliminate the disproportionate numbers of black prisoners who are placed in Hamilton while awaiting their trials in Toronto.**



## *Recommendations*

- (B) As an interim measure these superintendents should immediately impose a temporary quota system for such transfers, under which the proportion of black prisoners transferred to Hamilton would be no higher than the proportion of black prisoners in the Metropolitan Toronto jails and detention centres.
- (C) The steps taken by these superintendents should be reviewed by the Anti-Racism Co-ordinator for adult corrections, who should also monitor the operation of the quota system and ultimately recommend its termination.

\* \* \*

This interim investigation of racism in corrections has revealed both overt and systemic racism behind bars. There are many more issues which will be addressed in our final report. A more comprehensive and integrated approach will be possible at that time for a number of reasons.

First, clause 2(b) of the Commission's Terms of Reference requires us to consider many correctional issues "... in conjunction with other criminal justice issues being reviewed by the Commission." Thus, the interrelationship of corrections with other aspects of the Ontario criminal justice system will be explored.

Second, as required by its Terms of Reference, the Commission is currently involved in an extensive review of the "selection, education, training, promotion, and discipline" of correctional staff. The Commission has received excellent co-operation from many correctional officers in relation to these matters. In particular, we are examining issues such as:

- The development of specific goals and timetables for the hiring, promotion, and retention of staff from diverse ethno-cultural backgrounds;
- The adequacy of professional development and in-service training designed to enhance understanding and acknowledgement of the realities of cultural diversity, its implications for corrections, and the ways in which such training is integrated into on the job training; and
- The handling of complaints of racism and the disciplining of offending staff.

## *Recommendations*

Finally, the opportunity for further consultation with a variety of prisoner, community and Ministry organizations, as well as individual members of the public following the release of this interim report, will assist in developing further recommendations.



# Endnotes

1. Stephen Lewis, *Report to the Premier of Ontario* (June 9, 1992).
2. The Commission's Terms of Reference are in Appendix B.
3. The Terms of Reference use the phrase "anti-black racism." We have chosen to use the phrase "racism against black people" because we find the term "black," when used alone, to be dehumanizing of black people.
4. Gresham Sykes, *The Society of Captives: A Study of a Maximum Security Prison* (Princeton, New Jersey: Princeton University Press, 1958).
5. When we began our work, the Ministry responsible for correctional services for adults and 16- and 17-year-old youth was known as the Ministry of Correctional Services. As part of the reorganization of provincial government services in February 1993, this Ministry was amalgamated with the Ministry responsible for policing services. The provincial government department responsible for adult prisons and institutions for 16- and 17-year-old youth in conflict with law is now the Ministry of the Solicitor General and Correctional Services (MSGCS). The Ministry of Community and Social Services (MCSS) assumes responsibility over 12- to 15-year-old youth. We use these terms throughout this report.
6. *Martineau v. Matsqui Institution Disciplinary Board* (1980) 50 C.C.C. (2d) 353 at 373.
7. *Constitution Act, 1982*, Part I (enacted by the *Canada Act, 1982* (U.K.), c.11, s.1).
8. R.S.O. 1990 c. H-19.
9. Ministry of Correctional Services, *Adult Institutions Policies and Procedures Manual*, "Policy Statement on Conditions of Confinement" (July 1992.) See Appendix A.
10. *Ibid.*
11. Province of Nova Scotia, *Royal Commission on the Donald Marshall, Jr. Prosecution, Vol. I, Findings and Recommendations* (Halifax, 1989).



## Endnotes

12. Province of Manitoba, *Report of the Aboriginal Justice Inquiry of Manitoba*. Public Inquiry into the Administration of Justice and Aboriginal People (Winnipeg, 1991).
13. The Ministry of the Solicitor General and Correctional Services operates 36 jails and detention centres which mostly house prisoners awaiting trial and those who have received sentences of less than 30 days; 18 correctional centre and treatment institutions for sentenced adult prisoners; and 18 secure custody prisons for 16- and 17-year-old youth. Prisons for youth aged 12 to 15 ("Phase 1" institutions) are operated by the Ministry of Community and Social Services. There are 13 secure custody institutions for prisoners in this age group.
14. This office, established under the *Child and Family Services Act*, R.S.O. 1990 c. C-11, is mandated to provide advocacy on behalf of children receiving services from approved agencies. At the time of this writing, the jurisdiction of this office with respect to youth in conflict with the law has been extended to all young offenders, including those aged 16 and 17 who are otherwise under the jurisdiction of the MSGCS.
15. *Report by the Office of Child and Family Service Advocacy: Care of Youth at Thistletown Regional Centre Syl Apps Campus* (October 1992). The critical findings of the Apps report relevant to the work of this Commission include:
  - "...all youth from visible minority groups were aware of elements of racism that existed at Syl Apps."
  - "...youth reported that there was far more surveillance of black youth by staff than white youth. Groups of black youth were often called "a gang" and, when a cottage had more than two black residents, it was called "a ghetto".
  - "At the time of the Los Angeles riots, it was reported that some staff were fearful of black youth acting out behaviourally in reaction to the riot....Staff were mistrustful of black youth based on assumptions of potential emotional outburst and/or violent behaviours....The response of these staff was reactive and inflammatory." (pp.31-2).

16. The Commission has no power to investigate allegations of wrongdoing by individuals. However, on hearing these claims, we informed the Director of the Office of Child and Family Service Advocacy and alerted the superintendent of the prison.
17. *Supra*, note 15.
18. "Conditions of Confinement," *Supra*, note 9.
19. Elaine Genders and Elaine Player, *Race Relations in Prisons* (Oxford: Clarendon Press, 1989), 66.
20. *Ibid.*, 131-132.
21. In official correctional terminology, "segregation" is usually defined as the deliberate separation of a prisoner from the remainder of the prison population, either pending determination of an allegation that the prisoner has breached disciplinary rules, or as a penalty for breach of those rules. "Segregation" is also sometimes used to refer to an area of an institution (or occasionally an entire institution) where defined types of prisoners - sex offenders, informants, vulnerable or particularly dangerous prisoners - are kept separate from other prisoners. For the purposes of this interim report, segregation is used to refer to policies and practices of residential separation by "race" resulting in racial grouping or concentration within particular areas of an institution and limited opportunities for inter-racial association.
22. After several months the Commission eventually received some data from the previous computer system that had been replaced in 1991, but these data were neither sufficiently detailed nor current to permit serious analysis. At the time of this writing, the Commission has been able to access some limited information in the current computer system. These data will be used in the final report.
23. During this time the accused person is usually kept in a cell at a police station or the appropriate court building. These temporary facilities (known as *holding cells*) are managed either by the police or by court security personnel.

## Endnotes

24. Reasons for protection include, but are not limited to: current or former employment in the criminal justice system, a prisoner's status as informant or Crown witness, the nature of charges (particularly sex offences), notoriety of offences, and the sexual orientation of a prisoner.
25. "Classification of Adult Offenders," Ministry Directive (Operations) 16/91 (14 June 1991), 4.
26. *Ibid.*
27. The term "cottage" is used in official Ministry documents to reflect the connotation of distinct and unconnected living units. However, in reality, they are simply small jails.
28. Dispositions for young offenders may also provide for part of the time to be served in a secure custody institution with the remainder being spent in an open custody facility.
29. Until the mid-1980s, virtually all classification of sentenced offenders was centralized in the Ministry's Programming and Operational Support Branch. In August 1986, that Branch was reorganized into two distinct units (Offender Classification and Offender Transfer) and the classification process was significantly modified (Ministry of Correctional Services, *Annual Report*, 1987, 36). Over the following years, local jail superintendents were given increased powers to assess and classify prisoners, which necessitated the creation of classification officer positions in jails and detention centres.
30. *Supra*, note 25 at 2.
31. *Ibid.*, at 10.
32. *Ibid.*
33. The classification policies also state that, used with caution, "media accounts may ... be helpful in ascertaining public reaction to the crime." (*Ibid.*) People from black and other racial minority communities have long been concerned about the role of the media in shaping responses by officials in the criminal justice system. The Commission is exploring this issue as a whole. Our findings will be discussed in the final report.

34. MSGCS policies impose five basic duties on classification staff at prisons for sentenced offenders: determination of initial bed, program, and work assignments; review of such assignments as necessary; review of prisoners' requests for transfers or reclassification; provision of relevant information to superintendents and appropriate staff; and completion of "Institution Progress Record" and "Release Summary" parts of the Classification Record (*Supra*, note 25 at 20). The Ministry does not provide any guidelines, criteria, or standards for the discharge of these duties.
35. The Commission was told that there are limited discretionary funds available to superintendents of adult and youth prisons to assist families visiting prisoners held in institutions far from their homes. We were told specifically that such funds are used from time to time to pay the transportation expenses for family members to travel from Toronto to the Hamilton-Wentworth Detention Centre. However, the Commission notes that the availability of these funds is not routinely disclosed to all prisoners, nor are there any standard policies governing their disbursement.
36. The detention centre at Maplehurst, which contains 272 remand beds, opened in September 1991. Mimico currently holds 136 remand prisoners, and a new remand prison with space for 120 prisoners was expected to open in November 1993 although construction is behind schedule. The MSGCS has yet to make a final decision on what is to happen to the existing 136 remand beds at Mimico once the new facility is completed.
37. Ministry of Correctional Services. *Ontario Correctional Institute*. 1992, 2.
38. As part of its mandate to examine criminal legal aid, the Commission is investigating the availability and efficacy of post-sentence legal aid services.
39. Hamilton-Wentworth Detention Centre, *Institutional Directive* 10/90 (Nov. 23, 1990), 2.7.9.

## Endnotes

40. James B. Jacobs, "The Limits of Racial Integration in Prison" (1982) 18:2 *Criminal Law Bulletin* 117; and Samuel Walker, "The Limits to Segregation in Prisons: A Reply to Jacobs" (1985) 21 *Criminal Law Bulletin* 485.
41. Douglas C. McDonald and David Weisburd, "Segregation and Hidden Discrimination in Prisons: Reflection on a Small Study of Cell Assignments" in Clayton A. Hartjen and Edward E. Rhine (eds.) *Correctional Theory and Practice* (Chicago: Nelson-Hall, 1992).
42. "Conditions of Confinement," *supra*, note 9 at 1, 3, 4, 5, 6, 7.
43. *Ibid.*
44. R.S.O. 1990 c. C-11.
45. Ontario Ministry of Community and Social Services. "Principle of Services," 0102-02-05, *Young Offender Services* (1990).
46. *Ibid* at 12.
47. *Child and Family Services Act*, s.1(e).
48. *Child and Family Services Act*, s.104(b).
49. *Child and Family Services Act*, s.105(b).
50. *Child and Family Services Act*, s.108(g).
51. R.M. Martinson, "What Works? Questions and Answers about Prison Reform," *The Public Interest* 22 (1974), 35; D. Lipton, J. Wilks and R.M., Martinson, *The Effectiveness of Correctional Treatment* (New York: Praeger, 1975); K. Jobson, "Dismantling the System," *Canadian Journal of Criminology* 254 (1977) 19. For a recent critical analysis of the literature on rehabilitation and penal reform, see M.W. McMahon, *The Persistent Prison: Rethinking Decarceration and Penal Reform* (Toronto: University of Toronto Press, 1992).
52. See memo to J. Sutcliffe, Executive Coordinator, Policy and Corporate Planning Secretariat, MSGCS from Randi Pickering, Superintendent, Vanier Centre for Women, March 19, 1993; and *Program Planning Board* documentation, Vanier Centre for Women (n.d.).



53. *Ibid.*
54. *Ibid.*
55. *Ibid.*
56. *Ibid.*
57. Memo from L. Di Palma, Superintendent, Maplehurst Correctional Centre, to A. Iyogun, Commission Research Director, April 14, 1993, "Re Education Program," Maplehurst Correctional Centre.
58. Staff at Maplehurst told us that prisoners on the "work side" of the prison can be given time to complete correspondence courses if they express an interest in so doing.
59. The Commission was told on one occasion where this actually happened on the men's side of the Metro West Detention Centre, just after the opening of that institution in 1977. It is striking that an incident that happened 16 years ago is still being used as a justification for not providing black and other racial minority prisoners with a basic service.
60. In the course of a recent decision (*Conway v. Canada (Attorney General)* (1993) 83 C.C.C. (3d) 1 (S.C.C.) at 4-5) which holds that *female* COs may participate in "frisk-searches" and surveillance of *male* prisoners in the federal penitentiary system, the Supreme Court of Canada has recently affirmed the importance of ensuring that male COs do not participate in such searches and surveillance of female prisoners. The Court stated:

The reality of the relationship between the sexes is such that the historical trend of violence perpetrated by men against women is not matched by a comparable trend pursuant to which men are the victims and women the aggressors.

Biologically, a frisk search or a surveillance of a man's chest area conducted by a female guard does not implicate the same concerns as the same practice by a male guard in relation to a female inmate. Moreover, women generally occupy a disadvantaged position in society in relation to men. Viewed in this light, it becomes clear that the effect of cross-gender searching is different and more threatening for women than for men.

## Endnotes

The Commission is not in a position to comment on whether male staff observe racial minority women prisoners being “strip searched” more frequently than white prisoners. However, the volume of complaints we received is considerable. Because this issue is, strictly speaking, not part of our Terms of Reference, it would be inappropriate for us to make recommendations. Nevertheless, the Commissioners have written to the Correctional Ministers to request that they take whatever steps are necessary to ensure that women prisoners undergoing “strip searches” are not in any way visible to male staff.

61. If the youths’ claims are correct, the decision of the Alberta Court of Queen’s Bench in *R. v. Bearshirt* [summarized (1987) 3 W.C.B. (2d) 23] says that the practise is probably illegal as a violation of their freedom of religion under s.2 of the *Charter of Rights and Freedoms*.
62. Province of Ontario, *Royal Commission on the Toronto Jail* (Shapiro Commission), Toronto, 1978, Commentary on Recommendation 63.
63. R.R.O. 1990 Reg. 778, s.29(4).
64. R.R.O. 1990 Reg., 778 s.44.2 (c).

# Appendix A

## Adult Institutions Policy and Procedures



Ministry of  
Correctional  
Services

Ontario

Section: **Employees**

Date: **April 1992**

Subject: **Policy Statement on Human Rights**

Subject Number: **ADI 02 11 01**

### **Philosophy**

It is public policy in Ontario to recognize the dignity and worth of every person, and to provide for equal rights and opportunities. The aim of this policy is the creation of a climate of understanding and mutual respect for the dignity and worth of each person, so that each person feels a part of the community, and able to contribute fully to the development and well-being of the community and the Province. The Government of Ontario also believes that the primary responsibility for creating a society of equals lies with each and every citizen.

### **Commitment**

The Ministry of Correctional Services is committed to providing correctional services to a diverse client/inmate group, in a manner which is fully consistent with the Government's policies on human rights and race relations, and in accordance with the *Ontario Human Rights Code*.

It is also a policy of the Government of Ontario that every employee be afforded a work environment free of personal harassment. In addition, every employee of the ministry is entitled to function in a workplace free of discrimination and prejudice in any form.

Furthermore, in its dealings with the community, the ministry, through all of its employees, has a responsibility for treating every individual in a responsive manner, with courtesy, respect, and without prejudice or discrimination.

### **Obligations**

All employees of the ministry are personally responsible for acquainting themselves with this policy statement and for displaying conduct which is, at all times, consistent with it.

Ministry managers are responsible for promoting an understanding of, and adherence to, the *Ontario Human Rights Code* and relevant policies by staff at all levels in their organizational units. They are also obligated to ensure that all reported violations are investigated promptly, and that appropriate corrective action is taken. In accordance with the *Ontario Human Rights Code*, all managers also have a legal obligation to prevent and/or penalize harassment by any person under their administrative control against another individual.

The ministry will promote employee awareness of our pluralistic society and the benefits of its racial, cultural, religious and ethnic diversity; of the provisions of human rights legislation; and of responsibilities for ensuring adherence to the relevant philosophies and policies of the government and the ministry. In addition, the ministry will ensure that all alleged violations of human rights legislation and policies are investigated thoroughly, objectively, and without delay. Where breaches are found, corrective action, including the enforcement of all relevant laws, will be taken quickly, fairly, and firmly.

## Appendix A

### Adult Institutions Policy and Procedures



Ontario

Ministry of  
Correctional  
Services

Section: **Employees**

Subject: **Policy Statement on Race Relations**

Date: **April 1992**

Subject Number: **ADI 02 12 01**

The Government of Ontario believes that the primary responsibility for creating a society of equals lies with each and every citizen. It also recognizes the importance of decisive and articulate public leadership in the pursuit of harmony and equality between cultures and races.

The Government has for many years valued and fostered the development in Ontario of a multicultural and multiracial society. The resulting racial and ethnic diversity has enriched the lives of all Ontario residents, but nonetheless is contradicted by acts of racial discrimination and by racial disadvantage.

Accordingly, the Government wishes at this time to rearticulate its policies on race relations, and to reinforce its long standing commitment to the creation of a society characterized by equality of treatment and opportunity.

Therefore, the Government reconfirms and declares:

1. Racism in any form is not tolerated in Ontario.
2. Every person in Ontario has the right to an equal opportunity to enjoy life, work and leisure in this Province without being affected by racial discrimination or racial prejudice.
3. Doctrines of racial superiority, being scientifically false and morally reprehensible, have no place in Ontario.
4. The Government will work towards the elimination of racial prejudice by securing understanding and respect for the dignity of the human person.
5. Acts of racial discrimination will be met with the effective enforcement of the Ontario *Human Rights Code* and with the development, whenever needed, of new legislative initiatives.
6. Racially motivated offences will be met with the full force of the law to ensure the protection of the personal safety and dignity of all persons in Ontario.

The Government calls on every person of goodwill to work together and with the Government for a society in which equality provides the opportunity for each man, woman and child to achieve his or her maximum potential for the greater good.

## Adult Institutions Policy and Procedures



Ministry of  
Correctional  
Services

Section: **Employees**

Subject: **Workplace Discrimination and  
Harassment Prevention Directive**

Date: **April 1992**

Subject Number: **ADI 02 13 01**

The following text is excerpted from the directive and guideline issued by the Human Resources Secretariat:

### Objective

- To provide the principles and mandatory requirements essential to creating a work environment that is free from discrimination and harassment.
- To maintain, through proactive measures and enforcement, such a work environment.
- To identify corporate, ministry and agency responsibilities for the maintenance of such a work environment.

### Application and Scope

This directive applies to:

- all ministries and Schedule I agencies subject to Management Board of Cabinet directives;
- all employees, both classified and unclassified, including interns, summer students, and co-op students, appointed under the *Public Service Act*;
- employment-related discrimination and harassment, regardless of whether it occurs at the workplace or not;
- discrimination against a person because of his or her relationship, association or dealings with a person who belongs or is presumed to belong to a group designated under this directive;
- reprisal or threat of reprisal against employees who claim or pursue their rights under this directive including complainants, their representatives and witnesses. Employees who believe that a reprisal has occurred have the right to file a complaint under this directive;
- employment-related discrimination or harassment of OPS employees by people who are not OPS employees.

### Principles

- The Ontario government as an employer is responsible for providing a workplace that is free from harassment and discrimination.
- All management and supervisory staff have an obligation to act quickly upon information concerning incidents of discrimination and harassment.
- A work environment that is free from harassment, as defined in this directive, does not tolerate an abusive atmosphere where an employee is subjected to offensive remarks, behaviour or surroundings that create intimidating, hostile or humiliating working conditions.
- Employees have the right to fair and equitable conditions of employment without discrimination or harassment because of race/colour, ancestry, place of origin, ethnic origin, language or dialect spoken, citizenship, religion, sex (including



## Appendix A

- pregnancy), sexual orientation, age (16-64), marital status, family status, actual or perceived disability, criminal charges or criminal record.
- Discrimination and harassment inhibit the achievement of employment equity in the Ontario Public Service.
- The complainant and alleged offender are to be treated fairly, while preserving the dignity, privacy and self-respect of all persons involved.
- Alleged offenders should be protected from any retaliatory action from the complainant or other employees.
- Confidentiality is essential to the effective enforcement of this directive.
- All information, evidence and circumstances will be carefully considered when deciding upon a course of action where there is a complaint.

### Definitions

**Discrimination** means treating a person differently, usually less favourably, because of membership in a specific group (i.e., a group defined on the basis of race, colour, ethnic origin, language spoken, sex, marital/family status, sexual orientation, age, or other prohibited ground of discrimination under the Ontario *Human Rights Code*). It includes treating a person differently because of the person's actual or presumed relationship, association or dealings with someone in a specific group.

**Harassment** is any comment or conduct that is:

- based on race/colour, ancestry, place of origin, ethnic origin, language or dialect spoken, citizenship, religion, sex, sexual orientation, age, marital status, family status, physical or mental disability, criminal charges or criminal record;
- offensive to any employee and is known, or should reasonably be known, to be unwelcome.

It includes comments or conduct which ridicules or disparages a protected group even if not directed at a specific employee. This type of harassment, because of its harmful effects, is often referred to as a **poisoned work environment** and is prohibited under this directive.

**Sexual Harassment** is a situation where:

- an employee receives unwelcome sexual attention from any employee and such comment or conduct is known or should reasonably be known to be offensive, inappropriate, intimidating and/or hostile behaviour;
- an employee receives unwelcome sexual attention and is threatened or penalized by a loss of job, denial of advancement, raise or other employment benefit for noncompliance with sexual demands by a person in a position of authority who knows or should reasonably know that the sexual attention is unwelcome.

### Against the Law

Discrimination and harassment are illegal behaviours that will not be tolerated within the Ontario Public Service.

### Non-Discriminatory Work Environment

Management practices must be consistent with the provisions and spirit of the Ontario *Human Rights Code*.

All Ontario Public Service managers and other employees must be:

- informed about and sensitized to issues relating to discrimination, harassment and their effects on employees and the work environment;
- made aware of their responsibilities under this directive and the *Code* in creating and maintaining a work environment that is free from discrimination and harassment; and
- made aware of their rights under this directive, complaint procedures and the various internal and external complaint mechanisms available.

Communication and education are effective methods of raising awareness and preventing discrimination or harassment. Combined, they will contribute to a respectful work environment that discourages workplace discrimination.

The aim of the discrimination/harassment prevention directive, like that of the Ontario *Human Rights Code*, is to create in the workplace a climate of understanding and mutual respect, in which all employees will be made to feel that all are equal in dignity and rights.

#### **Redress Mechanism**

- There must be a clearly defined and structured program for preventing and remedying discrimination and harassment.
- A workplace discrimination/harassment prevention co-ordinator, advisors and investigators must be appointed to implement this directive. Smaller ministries can share these functions.
- Confidential advisory services must be available and accessible to all those wishing to resolve incidents of alleged discrimination or harassment, including complainants, alleged offenders and witnesses.
- Employees must be advised of their right to use the alternative remedies found in the Ontario *Human Rights Code*, *Collective Agreement* and *Public Service Act* instead of or in addition to the mechanism provided in this directive.
- Discrimination/harassment prevention advisors and investigators must be fully trained before assuming the role.

#### **Responsibilities of Managers and Supervisors**

Managers and supervisors are responsible for:

- establishing and maintaining a work environment that is free from harassment and discrimination;
- refusing to participate in or condone harassment or discrimination;
- ensuring that no employee is instructed to discriminate against another employee, or to participate in such discrimination;
- ensuring compliance with this directive;
- ensuring that employees are aware of their rights and responsibilities under this directive and the mechanism in place to investigate and resolve discrimination or harassment complaints;
- advising employees not to subject any person who is a party to a complaint — complainant, witness or alleged offender — to any reprisals;

## Appendix A

- initiating, in consultation with appropriate individuals, remedial procedures with respect to discrimination, harassment or reprisal as quickly as possible upon becoming aware of it, whether or not a complaint has been filed;
- addressing and resolving informal complaints;
- protecting the confidentiality of all parties and witnesses to the complaint to the greatest degree possible;
- co-operating with persons who investigate complaints;
- imposing penalties upon offenders in accordance with the directive and guideline and with ministry guidelines for delegation of disciplinary authority.

### Note:

Employees requiring additional information or confidential advice should contact the Workplace Discrimination/Harassment Prevention Co-ordinator at (705) 494-3075.

### Guidelines

Please refer to the *Human Resources Secretariat Directives & Guidelines*, ref. "The Working Environment", for information on "Complaints Resolution Procedures", "Remedies", "Confidentiality and Data Collection" and "Responsibilities".

Examples of behaviour that can constitute harassment include, but are not limited to:

- unwanted touching, patting or leering;
- innuendo, remarks, slurs, threats, demands or abuse;
- physical or sexual assault or display of offensive material;
- enquiries or comments about an individual's sex life;
- insults or jokes causing embarrassment or humiliation;
- repeated unwanted social invitations or telephone calls;
- inappropriate or unwelcome focus/comments on a person's physical characteristics, appearance, habits, customs or mannerisms.

# Adult Institutions Policy and Procedures



Ministry of  
Correctional  
Services

Section: **Inmates**  
Subject: **Conditions of Confinement**

Date: **April 1992**  
Subject Number: **ADI 05 01 01**

## Policy

It is the policy of the ministry to treat inmates in a responsible, just and humane manner which recognizes their inherent dignity as human beings, promotes their personal reformation, development and socialization, and affords them the rights, privileges and protections prescribed by law.

## Authority

*Canadian Charter of Rights and Freedoms*, ref. "Rights and Freedoms in Canada"; ref. "Fundamental Freedoms"; ref. "Democratic Rights of Citizens"; ref. "Life, Liberty and Security of Person"; ref. "Search or Seizure"; ref. "Detention or Imprisonment"; ref. "Arrest or Detention"; ref. "Proceedings in Criminal and Penal Matters"; ref. "Treatment or Punishment"; ref. "Self-Crimination"; ref. "Interpreter"; ref. "Equality Before and under Law and Equal Protection and Benefit of Law"; ref. "Application of Charter"; and ref. "Constitution Act, 1982".

*Ontario Human Rights Code*, Part I, ref. "Freedom from Discrimination".

*Ministry of Correctional Services Act*, ref. "Functions of Ministry"; ref. "Hospital treatment"; ref. "Rehabilitation programs"; ref. "Temporary absence"; and ref. "Remission".

The Regulations under the *Ministry of Correctional Services Act*, ref. "Correctional Institutions".

*Freedom of Information and Protection of Privacy Act*, ref. "Personal Privacy"; and ref. "Protection of Individual Privacy".

*French Language Services Act*, ref. "Provision of Services in French"; and ref. "Right to Services in French".

## Procedures

While the general freedom and liberty of citizens in the community is not absolute but subject to reasonable limits prescribed by law, inmates, by virtue of their imprisonment, have their general freedom and liberty reduced to a further extent. The degree or extent of this reduction is determined by law and the federal and provincial statutes which govern incarceration. Although the general liberty of inmates is reduced upon incarceration, there remains a certain residual freedom and liberty within the general institutional population which is subject to further reduction if necessary to protect the security, safety and good order of the institution.

The custodial aspect of the ministry's mandate comprises two primary components, the protection of society by supervising the detention and release of inmates and the provision of an environment and opportunities to promote their rehabilitation and successful reintegration into the community. In order to fulfil these responsibilities by balancing the detention and rehabilitation dichotomy, it is imperative that correctional personnel find a similarly equitable balance between the protection of inmate rights on the one hand and the legitimate safety and security concerns of the institution and community on the other.

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As the limitations clause in the *Canadian Charter of Rights and Freedoms* makes clear, Charter rights can only be limited subject to “such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”. In a series of decisions, the Supreme Court of Canada has established a test for deciding the reasonableness of limitations placed on Charter rights. The Court also places the onus of proving that the limiting measure is necessary and not just preferable as a matter of administrative convenience firmly on the party invoking the limitations clause.

The Supreme Court test requires a clear demonstration that the objective to be served by the limiting measure (e.g., security of the institution) is sufficiently important and necessary to warrant overriding the constitutionally protected right or freedom. The party relying on the clause must also show that the means chosen are reasonable and demonstrably justified. This requirement involves a proportionality test comprising the following three components:

- a) there must be a strong rational connection between the measure and the desired objective and the measure must not be unfair or arbitrary;
- b) the measure should impair the right in question as little as possible; and
- c) there must be a proportionality between the effects of the limiting measure and the objective; that is, the more severe the negative effects of the measure, the more important the objective must be.

Of major significance in making the determination is the recognition that prison practices and programs vary in degree of intrusiveness on inmate rights and that, as the level of intrusiveness increases, the objective must be increasingly important and the protections and safeguards must correspondingly increase. Finding the proper balance in each individual case between the protection of inmate rights and the maintenance of safe, secure and orderly institutions is a challenge facing all persons involved in the correctional system.

### Principles

When balancing the rights of inmates and the legitimate security and safety concerns of institutions, the ministry adheres to the following principles:

- a) Inmates retain all the rights, privileges and freedoms of a member of society, except those that are necessarily removed or restricted by the fact of incarceration.
- b) Correctional activities should be carried out in a manner which reflects the human dignity and worth of all persons involved in the correctional process.
- c) Incarceration consists only of the loss of absolute liberty, restriction of mobility, or other legal dispositions of the court.
- d) Any penalty or loss of liberty that results from an inmate’s violation of a statute, regulation or institutional rule must be imposed in accordance with law and only after providing the inmate with reasonable notice of the facts involved and an opportunity to respond to the allegation.
- e) In administering the disposition of the court, the least restrictive level of intervention should be used that meets the legal requirements of the disposition and is consistent with public protection and the security, safety and good order of the institution.



- f) Decisions involving inmates should be made as openly, objectively and fairly as is reasonably possible while ensuring the safety and security of the institution and community.
- g) Inmates should have ready access to timely and fair complaint mechanisms.
- h) Institutional rules should be applied uniformly and impartially.
- i) Inmates should not be harassed or discriminated against on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or physical or mental disability.
- j) Inmates should be provided a safe, healthy and responsive environment which is conducive to their rehabilitation and successful reintegration into the community.
- k) Inmates should be encouraged to maintain close ties with family members, relatives and friends in the community while incarcerated.
- l) To the degree possible, inmates with special needs should be provided with supervision, care, and services which are appropriate to their individual requirements.

#### **Environment**

Consistent with the principles cited above, inmates shall be accorded the following rights relative to their conditions of confinement:

- a) accommodation consistent with their classification, security requirements, health status and special needs, wherever possible;
- b) accommodation and surroundings which are in compliance with the relevant building, fire and safety codes and regulations;
- c) a clean and orderly environment;
- d) adequate personal hygiene and laundry facilities;
- e) personal grooming choices limited only by institutional and legal requirements for safety, security, identification and hygiene;
- f) clothing and bedding which is clean and in good condition;
- g) adequate lighting, heating and ventilation;
- h) a properly prepared diet containing the nutrients essential for promoting and maintaining good health;
- i) a supply of clean drinking water; and
- j) safekeeping of personal property, valuables and money in possession at the time of admission or received during incarceration.

#### **Programs and Services**

Consistent with public protection and the security, safety and good order of the institution, inmates shall be accorded the following rights relative to the provision of programs and services:

- a) daily outdoor exercise, except during inclement weather or when impracticable for medical, safety or significant security reasons;
- b) access to legal counsel, services and materials;
- c) access to clergy, spiritual advisors, publications and related services which allow inmates to adhere to their religious practices;
- d) visitation with family members, relatives and friends in areas that are limited only by institutional requirements to maintain security, safety and good order;

## Appendix A

- e) access to correspondence and telephone services;
- f) access to institutional library materials;
- g) access to institutional programs; and
- h) the opportunity to purchase items from the institutional canteen, unless forfeited as a penalty for a misconduct.

### **Health Care**

Health care services comparable in quality to those available to the general public shall be available, including the following:

- a) an assessment by a health care professional following admission and, when required, during incarceration;
- b) medical, nursing, dental and mental health services provided by registered health care practitioners;
- c) emergency treatment services;
- d) access, when necessary, to health care facilities and services in the community; and
- e) health care which recognizes the special needs of both sexes.

#### **Note:**

For additional information on conditions of administrative segregation, protective custody, special needs units and close confinement, please refer to the "Special Management Inmates" text in the "Safety/Security" section of the manual, ADI 04 14 01.

### **Information Guide**

To ensure that inmates are informed of their rights, duties and privileges while incarcerated, a copy of the ministry's "Information Guide for Adult Offenders in Ontario Provincial Correctional Institutions" shall be posted in the admission area and in every area of inmate accommodation. In institutions designated to provide French language services, the guide shall be posted in both English and French. On admission, inmates shall be advised to familiarize themselves with the contents of the guide.

In recognition of the linguistic diversity of the inmate population, the guide has also been translated into 11 other languages which are available in manual format. The manual binder should be maintained in a central location for reference and photocopying as needed.

In order to keep the text in good, clean condition for future reference and photocopying, it is advisable not to pass the binder or original pages into the inmate living units.

### **French Language Services**

The *French Language Services Act* guarantees the right of inmates to communicate with and receive services from the Ontario Government in French.

This guarantee applies to:

- a) the head office of all ministries, agencies, boards, commissions, and institutions of the Legislature;
- b) offices (e.g., correctional institutions, probation and parole offices, etc.) of ministries, agencies and the Legislature, located in designated areas; and

- c) regional and field offices which serve designated areas, even if those offices are not in a designated area.

For more detailed information on the provisions of the act, please refer to the ministry's *French Language Services Policy and Procedures Manual*.

### **Interpreter Services**

A significant number of inmates are from ethno-cultural backgrounds representing diverse cultural values, languages and legal traditions. In addition, some inmates have physical or mental impairments which place limitations on their ability to communicate.

An inability to communicate effectively may impair the ability of these inmates to comply with or understand the demands of the justice system. Therefore, to ensure that all inmates are advised of and understand their legal rights and responsibilities, interpreter services shall be provided to inmates who have limited or no language skills in English or French or have difficulty communicating because of physical or mental impairments.

The superintendent shall ensure that interpreter services are provided through local arrangements for inmates who are unable to communicate effectively because of linguistic, physical or mental difficulties in the following instances:

- a) misconduct proceedings pursuant to the Regulations under the *Ministry of Correctional Services Act*;
- b) hearings before the Ontario Board of Parole; and
- c) when considered necessary to assist in the management, treatment or rehabilitation of an inmate.

The superintendent shall select the interpreter service that meets the needs of both the inmate and the ministry. Interpreter services may be provided by ministry employees, family or friends of the inmate, volunteers, community agencies, ethnic organizations, immigration services, court translators, and other sources. For the hearing impaired, the Ontario Interpretation Service can be contacted through Canadian Hearing Society offices located throughout the province. In addition, the Ontario Association for the Deaf and Bob Rumble Centre for the Deaf may assist in providing services for hearing impaired inmates.

### **Vienna Convention on Consular Relations**

The Government of Canada has entered into a treaty called the Vienna Convention on Consular Relations with other participating countries. Article 36 of this treaty concerns inmates who are not Canadian citizens and places an obligation on Canada to facilitate, upon request, communication between foreign nationals in correctional facilities and their respective consular posts.

In keeping with the federal government's commitment, the following procedures shall apply:

1. As soon as it becomes known that an inmate is a foreign national, the inmate shall be advised of his/her right to contact consular or embassy officials.
2. At the request of the inmate, the superintendent or designate shall telephone the consulate/embassy and provide the following information:

## Appendix A

- a) foreign national's full name, place and date of birth;
- b) passport number if available;
- c) reason for the incarceration; and
- d) location of institution and applicable visiting hours.

The information shall be confirmed in writing with a copy of the correspondence being placed on the inmate's file.

3. If the inmate declines contact with the consulate/embassy, the inmate shall sign a "Waiver of Vienna Convention Treaty" form (no. 71-9969), which shall be placed in the inmate's file.

Consular/embassy officials have the right to visit and correspond with an inmate who is one of their nationals but not to take any action which is opposed by the inmate.

Communications between inmates and consular/embassy officials shall be forwarded without delay. Correspondence may be opened, read, and checked for contraband, but not censored.

Foreign nationals placed in custody by the Department of Manpower and Immigration are normally informed of their Vienna Convention rights by the immigration authorities. A notation to this effect shall be placed in the inmate's file. If this cannot be confirmed, the above procedure shall apply.

To ensure that all foreign nationals are afforded their rights pursuant to the Vienna Convention on Consular Relations, the superintendent shall ensure that a local procedure assigning responsibility for advising inmates of their rights and, when requested, contacting consular or embassy officials is included in the *Standing Orders*.

The Records Department shall be responsible for making the appropriate entry in the Offender Management System "Record Notification to Embassy/Consulate" screen (for additional information on the OMS procedure, please refer to the text entitled "Foreign Nationals" in the "Offender Management System" section, ADI 03 01 01).

### Elections

The *Canadian Charter of Rights and Freedoms* guarantees the right to vote to "every citizen of Canada". However, another section states that any rights guaranteed by the Charter are "subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society".

Since 1985, there have been a number of court decisions in jurisdictions across Canada dealing with the voting rights of sentenced inmates. The trend in these decisions has been to extend the right to vote to sentenced inmates. Inmates on remand have not been disenfranchised under legislation because they have not been found guilty of offences.

Election procedures have been prepared for federal, provincial and municipal elections. These are updated to reflect any changes in legislation or jurisprudence regarding the voting rights of inmates. When elections are announced, the assistant deputy minister, Operations Division, will forward the appropriate election procedures to the superintendent.



# Appendix B

## Commission's Terms of Reference

**WHEREAS** Stephen Lewis, in his Report to the Premier of Ontario, has recommended the establishment of an inquiry into racism and the criminal justice system;

**AND WHEREAS** the government recognizes that throughout society and its institutions patterns and practices develop which, although they may not be intended to disadvantage any group, can have the effect of disadvantaging or permitting discrimination against some segments of society (such patterns and practices as they affect racial minorities being known as systemic racism);

**AND WHEREAS** it is deemed advisable in the public interest to conduct an inquiry into systemic racism and the criminal justice system in Ontario;

**NOW THEREFORE**, David Cole and Margaret Gittens shall be appointed Co-Chairs and Toni Williams, Sri-Guggan Sri-Skanda-Rajah, Moy Tam and Ed Ratushny shall be appointed members of a Commission established to inquire into, report and make recommendations on systemic racism and the criminal justice system in accordance with the following terms of reference:

1. The Commission shall, without expressing any conclusion of law regarding the civil or criminal responsibility of any individual or organization:
  - a) Inquire into, report and make recommendations on the extent to which the exercise of discretion, at important decision making points in the criminal justice system, has an adverse impact on racial minorities. This inquiry shall include empirical research.
  - b) Inquire into, report, and make recommendations on the treatment of racial minorities in both adult and youth correctional facilities. Other corrections issues shall be dealt with in conjunction with other criminal justice system issues being reviewed by the Commission, as set out in these terms of reference.
  - c) Inquire into, report, and make recommendations on the policies of the Ministry of the Solicitor General with respect to community policing and inquire into, report, and make recommendations with respect to the implementation of community policing in Ontario, including existing community policing models being utilized by police services boards.
  - d) Inquire into, (by means of a comparative research study only and without hearings), report and make recommendations on how the criminal justice system should respond to future charges of criminal conduct against justice system officials and personnel involving racial minority victims. No findings or recommendations about any ongoing or completed case are to be made. The Commission shall make recommendations on how the practices, rules and procedures of the justice system should operate to address these charges in the future.
  - e) Inquire into current measures that address the issue of preventing systemic racism through the selection, education, training, promotion, and discipline of justice system officials and personnel; report and make recommendations for the improvement of these measures or for the development of others. The selection, education, training, promotion and discipline of police addressed by the Task Force on Race Relations and Policing should be excluded.
  - f) Inquire into, report, and make recommendations on the policy making practices of government ministries and agencies with criminal justice responsibilities, and how they could be improved to avoid reflecting or reinforcing systemic racism;
  - g) Inquire into, report, and make recommendations on how racial minority communities can participate in the development and implementation of current and future criminal justice system reforms.



## Appendix B

- h) Inquire into, report and make recommendations on access to justice services with respect to criminal matters, including criminal legal aid, by racial minorities.
  - i) While the issue is not within the mandate of the Commission, the Commission shall consider and make recommendations on the need for future studies into racism inherent in the law.
2. The Commission shall conduct the inquiry in an innovative and creative way, by such means as public meetings, focus group sessions, written submissions and empirical research studies. The Commission shall consult widely with justice system officials and personnel and shall seek out and use creative methods of ensuring community participation in its process. The Commission may return to the government to request powers under the *Public Inquiries Act* in relation to specific bodies or issues.
  3. The Commission shall utilize anti-black racism as a focal point for their analysis of systemic racism, also recognizing the various experiences and vulnerabilities of all racial minority communities, including racial minority women.
  4. The Commission shall pay particular attention to the impact of systemic racism on racial minority youth.
  5. The Commission shall not duplicate existing studies and shall take into account current government initiatives, where they reflect a systemic analysis, include community participation and address community concerns.
  6. While the subject matter of the Commission shall be systemic racism in the criminal justice system throughout Ontario, the Commission shall focus on urban centres in Ontario.
  7. The Commission, in cooperation with the Provincial Government, shall engage in discussions with the Federal Government with respect to the extent to which the Commission will consider institutions under Federal jurisdiction as they affect the administration of justice in Ontario.
  8. The Commission shall submit an interim report on treatment of racial minorities in both adult and youth correctional facilities to the Lieutenant Governor-in-Council within four months from the date of its appointment. The Commission shall submit its final report to the Lieutenant Governor-in-Council within one year from the date of its appointment.
  9. If allegations regarding individual incidents of wrongdoing are brought to the attention of the Commission, the Commission shall not attempt to investigate them, or make findings of fact about them, and shall refer them to the appropriate bodies.

All government ministries, boards, commissions, agencies are directed to cooperate fully with the Commission and, more specifically, to provide all relevant information to the Commission, and to exercise their discretion under the Freedom of Information and Protection of Privacy Act in a way which facilitates the work of the Commission. All others involved in the criminal justice system who are independent of government are requested to cooperate fully with the Commission.

The Commission shall have authority to engage such counsel, advisors, researchers and other staff and consultants as it deems proper within its budget at rates of remuneration to be approved by the Management Board of Cabinet.

# Appendix C

Commission's Consultations	Dates	Activities	Participants	City
	Oct. 2, 1992	Consultation	Senior Correctional Officers	Toronto
	Oct. 8, 1992	Meeting	Correctional Services Official	Toronto
	Oct. 9, 1992	Consultation	Chief Legal Counsel to Correctional Services	Toronto
	Oct. 9, 1992	Consultation	Toronto Bail Program Officials	Toronto
	Oct. 15, 1992	Meeting	National Black Police Association, Washington, D.C.	Toronto
	Oct. 19, 1992	Consultation	Senior Advisor, Research & Statistics, Solicitor General	Ottawa
	Oct. 21, 1992	Consultation	Scarborough Probation Officers	Toronto
	Oct. 28, 1992	Consultation	Scarborough Probation Officers	Toronto
	Oct. 29, 1992	Consultation	Offender Programming, Correctional Services; Policy & Corporate Planning Secretariat, Correctional Services; Children's Services Branch, Community and Social Services	Toronto
	Oct. 30, 1992	Meeting	Justice Review Project, Director	Toronto
	Oct. 30, 1992	Consultation	Correctional Official	Toronto
	Nov. 2, 1992	Meeting	Ontario Parole Board Member	Toronto
	Nov. 22, 1992	Consultation	Black Inmates & Friends Assembly (BIFA) Group, 12 Prisoners Warkworth Institution	Kingston
	Nov. 23, 1992	Meeting	Kingston Penitentiary	Kingston
	Nov. 23, 1992	Consultation	BIFA IndoPersian Group 12 Prisoners Collins Bay Institution	Kingston
	Nov. 23, 1992	Consultation	BIFA Group, 10 Prisoners Joyceville Institution	Kingston
	Nov. 24, 1992	Consultation	Asian Group, 8 Prisoners Collins Bay Institution	Kingston
	Nov. 24, 1992	Consultation	Multicultural Group, 30 Prisoners Pittsburgh Institution	Kingston
	Dec. 1, 1992	Meeting	Association of Correctional Managers	Toronto
	Dec. 1, 1992	Meeting	Ombudsman & Staff	Toronto
	Dec. 3, 1992	Annual General Meeting	Canadian Bar Association	Toronto
	Dec. 3, 1992	Meeting	Minister of Community and Social Services staff & representatives of Ontario Public Service Employees Union (OPSEU)	Toronto
	Dec. 9, 1992	Annual General Meeting	Coalition of Visible Minority Women	Toronto
	Dec. 10, 1992	Meeting	Chair & Vice-Chair, Ontario Board of Parole	Toronto
	Jan. 5, 1993	Meeting	Jail Superintendent (Federal & Provincial Corrections)	Toronto
	Jan. 15-17, 1993	Conference	BIFA & Metro Police "Working Together"	Toronto

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Dates	Activities	Participants	City
Jan. 18, 1993	Public Event	Martin's Day at Harbourfront	Toronto
Jan. 19, 1993	Meeting	Deputy Solicitor General & Senior Staff	Toronto
Jan. 25, 1993	Workshop	Researchers met with Academics, Lawyers & Community Members	Toronto
Jan. 28, 1993	Meeting	Judge, Judicial Legal Education	Toronto
Jan. 31, 1993	Meeting	Delos Davis Luncheon for Judge Micheline Rawlins	Toronto
Feb. 2, 1993	Meeting	Temporary Absence Board Mimico Correctional Centre	Toronto
Feb. 3, 1993	Meeting	Youth Link, Counsellor	Toronto
Feb. 3, 1993	Meeting	Deputy Minister, Correctional Services	Toronto
Feb. 4, 1993	Meeting	Equity Officer, Attorney General	Toronto
Feb. 11, 1993	Meeting	Operation Springboard	Toronto
Feb. 12, 1993	Meeting	Metro East Detention Centre	Toronto
Feb. 17, 1993	Meeting	Youth Community Services North York Public Libraries	North York
Feb. 18, 1993	Meeting	Black Coalition for AIDS Prevention	Toronto
Feb. 18, 1993	Meeting	Metro West Detention Centre, Vanier Centre for Women	Toronto
Feb. 23, 1993	Workshop	Criminal Justice Professionals	Toronto
Feb. 25-28, 1993	Conference	National Black Law Students Association	Halifax, N.S.
Mar. 1, 1993	Conference	Police Association of Ontario	Toronto
Mar. 2, 1993	Meeting	Stephen Lewis	Toronto
Mar. 3, 1993	Meeting	Youth Link	Toronto
Mar. 4, 1993	Meeting	Prof. Michael Tonry Centre of Criminology	Toronto
Mar. 5, 1993	Meeting	Western Region, Ontario Board of Parole	Guelph
Mar. 9, 1993	Meeting	Child & Family Services Advocate Manager	Toronto
Mar. 11, 1993	Meeting	Central Region, Ontario Board of Parole	Toronto
Mar. 16, 1993	Meeting	Elizabeth Fry Society, Executive Director	Toronto
Mar. 17, 1993	Meeting	Syl Apps, Senior Staff	Toronto
Mar. 17, 1993	Meeting	Elizabeth Fry Society, Residents	Toronto
Mar. 18, 1993	Meeting	Regional Directors & Managers of Correctional Institutions	Toronto
Mar. 19, 1993	Meeting	Sprucedale Youth Centre, Superintendent, Deputy Superintendent, Programming & Placement Officer	Toronto

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Dates	Activities	Participants	City
Mar. 21, 1993	Public Event	International Day for the Elimination of Racial Discrimination "The Colour of Freedom"	Toronto
Mar. 22, 1993	Meeting	Urban Alliance on Race Relations Assistant Deputy Ministers Correctional Services	Toronto
Mar. 23, 1993	Meeting	Superintendents of Metro Correctional Institutions	Toronto
Mar. 23, 1993	Meeting	Employment Equity Program, Correctional Services	Toronto
Mar. 23, 1993	Meeting	Metro Police	Toronto
Mar. 23, 1993	Focus Group	Youth Exposed to the Criminal Justice System	Toronto
Mar. 24-28, 1993	Conference	The Role of the Judge in the New Canadian Reality	Victoria, B.C.
Mar. 26, 1993	Conference	The Justice System: Is it Serving or Failing Minorities? Urban Alliance on Race Relations	Toronto
Mar. 30, 1993	Meeting	Advocates' Society	Toronto
Mar. 31, 1993	Meeting	Students at Rosedale Heights	Toronto
Mar. 31, 1993	Meeting	Correctional Services Deputy Minister	Toronto
Apr. 1, 1993	Focus Group	Community Groups Involved with Adult Corrections	Toronto
Apr. 1, 1993	Focus Group	Organizations Working with Youth Exposed to the Criminal Justice System	Toronto
Apr. 6, 1993	Focus Group	Classification Officers	Toronto
Apr. 7, 1993	Meeting	Guelph Correctional Centre Prisoners, Superintendent, Deputy, & Senior Staff	Guelph
Apr. 7, 1993	Meeting	Maplehurst Correctional Centre Prisoners, Superintendent, Deputy & Senior Staff	Milton
Apr. 8, 1993	Meeting	Corrections Staff Training & Recruitment Unit	Toronto
Apr. 8, 1993	Meeting	Ontario Correctional Institute Prisoners, Superintendent, Deputy & Senior Staff	Brampton
Apr. 13, 1993	Meeting	Elizabeth Fry Society Senior Staff	Hamilton
Apr. 14, 1993	Meeting	Millbrook Correctional Centre Prisoners, Superintendent, Deputy & Senior Staff	Millbrook
Apr. 15, 1993	Focus Group	Correctional Officers	Toronto
Apr. 16, 1993	Focus Group	Correctional Officers	Toronto
Apr. 20, 1993	Meeting	Black Inmates & Friends Assembly Executive Director	Toronto

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Dates	Activities	Participants	City
Apr. 20, 1993	Meeting	Ontario Anti-Racism Secretariat Youth Community Placement Program	Toronto
Apr. 20, 1993	Consultation	Aboriginal Consultation, Interim Steering Committee	Toronto
Apr. 23, 1993	Conference	Racial Minority Youth	Ottawa
May 4, 1993	Meeting	OPSEU - Grievance Officer	Toronto
May 20, 1993	Focus Group	Community Policing, Community Activists & Representatives	Toronto
May 21, 1993	Meeting	Chief Coroner	Toronto
May 26, 1993	Focus Group	Community Policing, Racial Minority Police Officers	Toronto
May 27, 1993	Conference	Provincial Division Judges	Ottawa
May 27, 1993	Conference	Crown Attorneys	Muskoka
May 28, 1993	Meeting	Safe School Coalition	Scarborough
June 1, 1993	Meeting	Criminal Lawyers Collective of the Ontario Law Union	Toronto
June 1, 1993	Meeting	Teaching Staff, Scarborough Board	Scarborough
June 3, 1993	Meeting	Parole Board Member, Central Toronto	Toronto
June 4, 1993	Reception	National Black Police Association	Toronto
June 6, 1993	Meeting	Conflict Resolution Team Toronto Board of Education	Toronto
June 7-8, 1993	Conference	Community Policing, Black & Other Racial Minority Communities, Activist, Black Police Officers, Senior Police Management & Police Service Board Members	Toronto
June 8, 1993	Equity Forum	Toronto Board of Education & Public	Toronto
June 9, 1993	Information	Metro Youth Council	Scarborough
June 9, 1993	Meeting	Violence Prevention Secretariat Ministry of Education	Toronto
June 14, 1993	Meeting	Legal Aid	Toronto
June 14, 1993	Forum	How is the Educational System Failing Us? Black Professionals - Reaching Out	Toronto
June 15, 1993	Focus Group	Youth & Pre-Trial Encounters, Defence Counsel	Toronto
June 15, 1993	Meeting	Deputy Superintendent, Maplehurst Correctional Centre	Milton
June 15, 1993	Meeting	Correctional Staff, Maplehurst Correctional Centre	Milton
June 15, 1993	Meeting	Parole Board Members, West Central	Milton
June 16, 1993	Meeting	Vice-Chair, Central Region Parole Board	Toronto
June 17, 1993	Meeting	Association of Black Law Enforcers	Toronto



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Dates	Activities	Participants	City
June 17, 1993	Meeting	Organizations of Parents of Black Children	Toronto
June 18, 1993	Meeting	NOW Magazine, Journalist	Toronto
June 20, 1993	Street Theatre Festival	Summer '93 Focus Black Creek Focus, Community Members	Toronto
June 21, 1993	Meeting	Student Program Worker Toronto Board of Education	Toronto
June 21, 1993	Meeting	Justice C.L. Dubin	Toronto
June 21, 1993	Workshop	Black Youth Achievements Law Awareness	Toronto
June 22, 1993	Meeting	Court Liaison Officer, Probation Services, Ministry of Solicitor General and Correcional Services	Toronto
June 22, 1993	Meeting	Probation Officer, Ministry of Community and Social Services	Toronto
June 23, 1993	Meeting	Curriculum Division Toronto Board of Education	Toronto
June 23, 1993	Meeting	Black Clergy	Toronto
June 23, 1993	Discussion	Crown Attorney	Toronto
June 23, 1993	Meeting	Vice-Chair, Western Region Parole Board	Guelph
June 23, 1993	Meeting	Correctional Staff, Guelph Correctional Centre	Guelph
June 23, 1993	Meeting	Parole Board Member, Western Region	Guelph
June 24, 1993	Meeting	Parole Board Member, Central	Toronto
June 25, 1993	Meeting	Probation Officer, Ministry of Community and Social Services	Toronto
June 25, 1993	Meeting	Senior Judges	Lakefield
June 25-26, 1993	Meeting	Canadian Alliance of Black Educators	Toronto
June 28, 1993	Meeting	Staff Interpreter, Ministry of the Attorney General	Toronto
June 28, 1993	Meeting	Director, Metro Toronto School Board	Toronto
June 28, 1993	Meeting	Trustee (Ward 7) Toronto Board of Education	Toronto
June 29, 1993	Meeting	President, Community Service Association	Richmond Hill
July 1, 1993	Street Theatre Festival	Black Creek Focus Summer '93 Community Members	Toronto
July 7, 1993	Meeting	Coordinator Multicultural and Race Relations, Scarborough Board of Education	Scarborough
July 7, 1993	Meeting	OPSEU	Toronto
July 8, 1993	Meeting	Staff, African Canadian Court-Workers Program, Ministry of the Attorney General	Toronto

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Dates	Activities	Participants	City
July 8, 1993	Meeting	Caribbean Association of Peel	Mississauga
July 8, 1993	Meeting	Peel Region, Elizabeth Fry Society	Brampton
July 8, 1993	Meeting	Urban Alliance of London	London
July 8, 1993	Meeting	Senior Officers, London Police Force	London
July 8, 1993	Meeting	Police Services Board, London	London
July 8, 1993	Meeting	London Cultural Interpretation Service	London
July 8-9, 1993	Meeting	Office of Race Relations	London
July 9, 1993	Meeting	University of Western Ontario	London
July 9, 1993	Meeting	Office of the Anti-Racism Secretariat	London
July 9, 1993	Meeting	Women Immigrants of London	London
July 9, 1993	Meeting	London Psychiatric Hospital Administration	London
July 9, 1993	Meeting	London Inter-Community Health Centre	London
July 9, 1993	Meeting	London Coordinating Committee to End Women Abuse	London
July 9, 1993	Meeting	London Coordinating Committee to End Women Abuse, Multicultural Subcommittee	London
July 9, 1993	Meeting	Correctional Staff, East Detention Centre	Scarborough
July 9, 1993	Meeting	Parole Board Member, West Central	Brampton
July 9, 1993	Meeting	Canadian Centre for Justice Statistics	Toronto
July 11, 1993	Discussion	Youth Unity Symposium	North York
July 14, 1993	Meeting	Ottawa-Carleton Area Police and Community Council	Ottawa
July 14, 1993	Focus Group	Harambee Centre Youth Group	Ottawa
July 14, 1993	Meeting	Canadian Centre on Police Race Relations	Ottawa
July 14, 1993	Meeting	Ottawa Police Force Senior Officer	Ottawa
July 14, 1993	Meeting	Gloucester Police Force Representative, Canadian Translators & Interpreters Council	Ottawa
July 14, 1993	Meeting	Ottawa-Carleton Immigrant Services Organization	Toronto
July 15, 1993	Focus Group	Immigrant and Visible Minority Women Against Abuse	Ottawa
July 15, 1993	Focus Group	National Capital Alliance on Race Relations	Ottawa
July 15, 1993	Focus Group	National Council of Jamaicans and Supportive Organizations	Ottawa
July 15, 1993	Meeting	Canada	Ottawa
July 15, 1993	Meeting	Bias Crime Unit	Ottawa
July 15, 1993	Meeting	Ottawa Police Force	Ottawa

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Dates	Activities	Participants	City
July 15, 1993	Meeting	Research Director, Ottawa Police Force	Ottawa
July 15, 1993	Meeting	Ottawa Police Service Board	Ottawa
July 15, 1993	Meeting	Gay-Lesbian Police Liaison Committee	Ottawa
July 15, 1993	Meeting	Executive Director, Metro Toronto Chinese & Southeast Asian Legal Clinic	Toronto
July 16, 1993	Workshop	Lawrence Heights: Black Youth & Coping	North York
July 16, 1993	Meeting	Parole Board Member, West Central	Brampton
July 16, 1993	Meeting	Inspector, Metropolitan Toronto Police Force	Toronto
July 16, 1993	Meeting	Staff Sergeant, Metropolitan Toronto Police Force	Toronto
July 20, 1993	Consultation	Aboriginal Consultation	Toronto
July 21, 1993	Meeting	Youth in Alternative Measures Program, North York Probation Services, Ministry of Community and Social Services	North York
July 22, 1993	Meeting	Probation Officer, Ministry of Community and Social Services	Toronto
July 22, 1993	Focus Group	Alternative Measures & Bail	Scarborough
July 23, 1993	Meeting	Probation Officer, Ministry of Solicitor General and Correctional Services	Toronto
July 27, 1993	Meeting	Superintendent, Mimico Correctional Centre	Toronto
July 27, 1993	Meeting	Correctional Staff, Mimico Correctional Centre	Toronto
July 28, 1993	Focus Group	Duty Counsel	Toronto
July 29, 1993	Meeting	Chinese Canadian National Council	Toronto
July 29, 1993	Meeting	Youth in Alternative Measures Program, Scarborough Probation Services, Ministry of Community and Social Services	Scarborough
July 29, 1993	Meeting	Street Outreach Services	Toronto
July 30, 1993	Forum	Bangladesh Awami Society	Toronto
Aug. 3, 1993	Meeting	Probation Manager, Young Offenders	Toronto
Aug. 4, 1993	Meeting	Area Manager, Ministry of Solicitor General and Correctional Services	Toronto
Aug. 4, 1993	Meeting	Probation Officer, Young Offenders	Toronto
Aug. 4, 1993	Discussion	Criminal Lawyer	Toronto
Aug. 5, 1993	Focus Group	Female Racial Minority Police Officers	Toronto
Aug. 5, 1993	Focus Group	Over-policing of Youth in Public Spaces-African Cultural Organization	Toronto

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Dates	Activities	Participants	City
Aug. 5, 1993	Meeting	Ontario Human Rights Commission Policy Division	Toronto
Aug. 6, 1993	Focus Group	Over-policing of Youth in Public Spaces-South Asian Centre	Toronto
Aug. 9, 1993	Focus Group	Over-policing of Youth in Public Spaces-Woodgreen Community Centre	Toronto
Aug. 10, 1993	Public Meeting	Justice for Graciela Montans: Violence Against Women-Systemic Racism in the Criminal Justice System	Toronto
Aug. 10, 1993	Focus Group	Over-policing of Youth in Public Spaces-Central Neighbourhood House, Youth Workers	Toronto
Aug. 11, 1993	Focus Group	Over-policing of Youth in Public Spaces-Central Neighbourhood House, Front Line Staff	Toronto
Aug. 11, 1993	Workshop	BIFA: Youth & the Criminal Justice System	Toronto
Aug. 11, 1993	Meeting	Over-policing of Youth in Public Spaces-Metro Police Headquarters, Police Officers	Toronto
Aug. 12, 1993	Focus Group	Metro Toronto Police Street Crime Unit Officers	Toronto
Aug. 12, 1993	Focus Group	Over-policing of Youth in Public Spaces-Central Neighbourhood House, Front Line Staff	Toronto
Aug. 12, 1993	Focus Group	Over-policing of Youth in Public Spaces-Youth	North York
Aug. 13, 1993	Focus Group	Over-policing of Youth in Public Spaces-Alert Program	Brampton
Aug. 13, 1993	Meeting	Board of Police Commissioners Metro Toronto Police	Toronto
Aug. 14, 1993	Meeting	Over-policing of Youth in Public Spaces-Change of Future/Youth Fresh Arts	Toronto
Aug. 16, 1993	Performance & Discussion		Toronto
Aug. 18, 1993	Focus Group	Over-policing of Youth in Public Spaces-Youth	North York
Aug. 19, 1993	Performance & Discussion	Caribana: JOY Central High School of Commerce	Toronto
Aug. 19, 1993	Focus Group	Racial Minority Lawyers	Toronto
Aug. 19, 1993	Meeting	Over-policing of Youth in Public Spaces-Marcus Garvey Home	Toronto
Aug. 20, 1993	Meeting	Over-policing of Youth in Public Spaces-JOY Change of Future	Toronto
Aug. 20, 1993	Focus Group	Kababayan-Filipino Youth Group	Scarborough
Aug. 24, 1993	Focus Group	Law Enforcement Personnel & Youth	Toronto
Aug. 24, 1993	Meeting	Over-policing of Youth in Public Spaces-Scarborough Civic Centre	Scarborough

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Dates	Activities	Participants	City
Aug. 25, 1993	Meeting	Law Society Representatives	Toronto
Aug. 25, 1993	Meeting	Over-policing of Youth in Public Spaces-Lesbians/Gays of Colour	Toronto
Aug. 26, 1993	Meeting	Over-policing of Youth in Public Spaces-Filipino Youth	Scarborough
Aug. 27, 1993	Meeting	Over-policing of Youth in Public Spaces-Parents of Black Youth	Scarborough
Aug. 28, 1993	Youth Forum	Harbourfront Community Centre	Toronto
Aug. 31, 1993	Meeting	Office of the Public Complaints Commission	Toronto
Sept. 1, 1993	Meeting	Street Crime Unit - 5 District	Toronto
Sept. 2, 1993	Meeting	Toronto Board Teachers and School Personnel	Toronto
Sept. 9, 1993	Focus Group	Interpreter Services: Social Service Providers	Toronto
Sept. 13, 1993	Meeting	Correctional Staff & Management Vanier Centre for Women	Brampton
Sept. 14, 1993	Meeting	Toronto School Board Teachers and School Personnel	Toronto
Sept. 15, 1993	Meeting	Jamarian Canadian Association	Toronto
Sept. 16, 1993	Focus Group	Interpretation Services: Service Providers in the Criminal Justice System	Toronto
Sept. 17, 1993	Discussion	Feminist Working Group on the Criminal Justice System Attorney General & Ontario Women's Directorate	Toronto
Sept. 21, 1993	Focus Group	Court Interpreters	Toronto
Sept. 24, 1993	Meeting	Roundtable Discussion on Juries	Toronto
Sept. 27, 1993	Meeting	Representative, Canadian Translators & Interpreters Council	Toronto
Sept. 28, 1993	Workshop	Race Statistics-Community Members, Academics, Government Officials, Police Personnel	Toronto
Sept. 29, 1993	Meeting	Chair, Criminal Injuries Compensation Board	Toronto
Oct. 1, 1993	Meeting	Provincial Council of Elizabeth Fry Societies	Toronto
Oct. 2, 1993	Conference	Charitable Organization of Jamaican Ex-Policemen and Associates (COJEP)	Mississauga
Oct. 12, 1993	Meeting	Toronto Board Teachers and School Personnel	Toronto
Oct. 21, 1993	Meeting	Toronto Board Anti-Racism Camp - Students & Teachers	Parry Sound
Oct. 22, 1993	Meeting	Scarborough Board, Research Unit	Scarborough
Oct. 26, 1993	Meeting	Attorney General, Policy Development Branch	Toronto
Nov. 2, 1993	Meeting	Attorney General, Research Services	Toronto



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Dates	Activities	Participants	City
Nov. 3-5, 1993	Conference	Youth Justice in Crisis	Toronto
Nov. 5, 1993	Meeting	Scarborough Board, Student & Community Services	Scarborough
Nov. 10, 1993	Meeting	Attorney General, Legal Services Branch	Toronto
Nov. 10, 1993	Meeting	Central Toronto Youth Services	Toronto
Nov. 11, 1993	Meeting/Anti Racist Retreat	Scarborough Board, Secondary School Principals	Gravenhurst
Nov. 12, 1993	Meeting	Royal Commission on Learning Research Team	Toronto
Nov. 16, 1993	Meeting	Justice Review Project	Toronto
Nov. 17, 1993	Meeting	Institute of Social Research, York University	Downsview
Nov. 23, 1993	Meeting	Executive Committee, Ontario Association of Chiefs of Police	Hamilton
Nov. 26, 1993	Meeting	Inspector Frank Amsterdam Police (Holland)	Toronto



